

## WESTERN HEMISPHERE

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### ANTIGUA AND BARBUDA

Antigua and Barbuda is a multiparty, parliamentary democracy and a member of the Commonwealth of Nations. A prime minister, a cabinet, and a bicameral legislative assembly compose the Government. A Governor General, appointed by the British monarch, is the titular head of state, with largely ceremonial powers. Prime Minister Lester B. Bird's Antigua Labour Party (ALP) has controlled the Government and Parliament since 1976. In the March 1999 elections, the ALP retained power by winning 12 of 17 parliamentary seats, 2 more than it won in the previous elections in 1994. The Governor General appoints the 15 senators in proportion to the parties' representation in Parliament and with the advice of the Prime Minister and the leader of the opposition. The judiciary is independent.

Security forces consist of a police force and the small Antigua and Barbuda Defence Force. The police are organized, trained, and supervised according to British law enforcement practices. There were reports of occasional instances of excessive use of force by the police and prison guards.

The country has a mixed economy with a strong private sector. Tourism is the most important source of foreign exchange earnings. The country is burdened by a large and growing external debt, which remains a serious economic problem. Per capita gross domestic product was about \$7,500 in 1998.

The Government generally respected the human rights of its citizens; however, problems remained in several areas. Prison conditions are poor, and there were allegations of abuse of prison inmates. Opposition parties complained that they received limited coverage or opportunity to express their views on the government-controlled electronic media. Societal discrimination and violence against women also continued to be problems.

#### RESPECT FOR HUMAN RIGHTS

##### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Political and Other Extrajudicial Killing.*—There were no reports of political or other extrajudicial killings.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits such practices, and the authorities generally respected these prohibitions; however, there were allegations of abuse by prison guards.

There have been occasional reports of police brutality and threatening behavior. In August the families of two young men arrested by the police charged that police beat the young men leaving them with bruises and cuts on their arms, cursed them, and waved guns at family members in a threatening manner. Police authorities acknowledged the arrest but denied the alleged behavior by the policemen named by the families.

Prison conditions are poor. Conditions at the lone, 18th-century prison considerably worsened when a fire destroyed most of the facility in January 1999. Prisoners allegedly started the fire to protest random searches by prison guards. Following earlier prison riots and serious security breaches in 1997, the Government had decided to privatize the prison and hired a foreign security company, which replaced all prison officials, with the exception of a small administrative staff and women's prison officials, with its own employees.

Conditions at the prison have remained unsettled since the fire.

All prisoners are back in the compound, but repairs and renovations were not yet completed at year's end. In August the private firm's contract ended and was not renewed. A local management team was hired, with an acting superintendent on temporary duty from a neighboring island, and was charged with restoring order in

keeping with the June 1999 recommendations of a Royal Commission of Inquiry that investigated charges of abuse and other problems. A resident superintendent was trained to take over from the acting official, and the new team continued to train new hires and returning guards who had been discharged when the private firm ran the facility. The Commission recommended hiring more guards and using a rehabilitative approach. A psychologist was hired to oversee a newly established Rehabilitation Center, while some 30 new guard officer positions were filled to bring the staff to 94, including 16 female officers.

The prison remained overcrowded, with over 170 prisoners. In September inmates sent letters of complaint to the media, asking that the letters be forwarded to regional human rights organizations. They claimed that prisoners were chained naked to the floor in the maximum security section of the yet-to-be renovated prison. The authorities established a local review board to hear prisoner complaints and to monitor progress at the prison, but government officials and concerned private individuals agreed that problems are likely to continue until funds can be found to build a new prison outside the city precincts.

The women's prison facility is separate and has not experienced the problems encountered in the men's prison. There is no separate facility for juveniles, who are housed with adult inmates.

The Government permits prison visits by independent human rights monitors.

*d. Arbitrary Arrest, Detention, or Exile.*—The Constitution prohibits arbitrary arrest and detention, and the Government respects these provisions in practice. Criminal defendants have the right to a judicial determination of the legality of their detention. The police must bring detainees before a court within 48 hours of arrest or detention.

The Government does not use forced exile.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and the Government respects this provision in practice.

The judicial system is part of the Eastern Caribbean legal system and reflects historical ties to the United Kingdom. The Constitution designates the Privy Council in London as the final court of appeal, which always is employed in the case of death sentences. There are no military or political courts.

The Constitution provides that criminal defendants should receive a fair, open, and public trial. In capital cases only, the Government provides legal assistance at public expense to persons without the means to retain a private attorney. Courts can reach verdicts quickly, with some cases coming to conclusion in a matter of days.

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such practices, government authorities generally respect these prohibitions, and violations are subject to effective legal sanction.

## *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech, of the press, and other forms of communication. Although the authorities generally respect these provisions in practice, the Government has restricted opposition parties' access to electronic media, effectively denying them equal coverage. The Government owns one of the two general interest radio stations and the single television station. A religious station broadcasts without impediment. One of the Prime Minister's brothers owns the second radio station, and another brother is the principal owner of the sole cable television company. The government-controlled media report regularly on the activities of the Government and the ruling party but limit their coverage of and access by opposition parties.

These restrictions led opposition leader Baldwin Spencer to initiate a constitutional challenge in 1993. In 1997 the High Court determined that the Government had denied Spencer his constitutional right to freedom of expression and called on the Government to provide the opposition with greater media access in the future. However, this ruling has had limited impact in practice. The Government continues to restrict opposition access to the media, and there continue to be allegations of censorship as the result of subtle coercive pressure by influential persons. The March 1999 report of the Commonwealth observer group that monitored the general elections noted that the governing ALP party received the greatest share of political coverage by the government-controlled electronic media. The report also indicated that fair and equal access to publicly owned electronic media did not appear to be available to opposition party figures.

However, print media, including daily and weekly newspapers, are active and offer a range of opinion, often publishing vigorous criticism of the Government. Nevertheless, efforts by print media to expand into electronic media have been re-

stricted. In 1996 a daily newspaper attempted to start a radio station but has been unable to secure a license to operate. The authorities charged the owners with operating a radio station without a license. The case went to trial, and the judge found in favor of the Government, charging the newspaper owners with criminal conduct and finding them liable for damages. The owners sued the State in December 1996 for illegal search and seizure and claimed that their constitutional right to broadcast had been violated. In December 1997, the judge ruled that constitutional rights had not been violated, even though the owners could rightly claim significant delay; the judge found that the Government had not been inconsistent in this case, since it had not granted other licenses. In 1998 the owners appealed the case to the Privy Council in London, pointing out that a progovernment station had been granted a license. On November 14, the Privy Council ruled in favor of the appellants, after finding that the Government had submitted fraudulent licenses and deceptive evidence to the court. (The Government had presented licenses supposedly issued to the Bird family for 25 years, but the signature on the licenses was that of an official who had retired prior to the date of issuance, and the law permitted licenses to have a validity of 1 year only.) The Privy Council ordered the Government to assign the appellants a broadcast frequency within 14 days. On November 15, the Government said that it would take steps to introduce new regulations to govern broadcasting, and on November 27, the police returned the impounded radio station equipment to the owners, who planned to begin broadcasting as soon as possible.

The police still have not issued an official report of their investigations in three possible arson attacks in November 1998. An arsonist destroyed an opposition newspaper; a fire of suspicious origin badly damaged the Ministry of Information; and the opposition United Progressive Party's outdoor convention site mysteriously was set on fire.

In March 1999, a newspaper dismissed two journalists due to a controversy surrounding a news story critical of the Government. The foreign-born newspaper publisher dismissed the reporters for making public their opposition to the publisher's decision not to publish the article critical of the Government just prior to the general elections. The Caribbean Association of Media Workers criticized the dismissals as undermining the newspaper's editorial independence and as a threat to press freedoms.

The Government does not restrict academic freedom.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for the right of peaceful assembly. The police normally issue the required permits for public meetings but sometimes deny them in order to avert violent confrontations. While the authorities placed some restrictions on demonstrations in the past, the opposition held numerous rallies and public meetings to promote its platform without any interference.

The Constitution provides for freedom of association, and the Government generally respects this right in practice.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government respects this right in practice.

Members of the Rastafarian community have complained that law enforcement officials unfairly target them. However, it is not clear whether such complaints reflect discrimination on the basis of religious belief by the authorities or simply enforcement of the laws against marijuana, which is used as part of Rastafarian religious practice.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The law provides for these rights, and the Government respects them in practice.

The Government assesses all claims by refugees under the provisions of the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The issue of provision of first asylum did not arise. There were no reports of the forced return of persons to a country where they feared persecution.

### *Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The Constitution provides for a multiparty political system accommodating a wide spectrum of political viewpoints. All citizens 18 years of age and older may register and vote by secret ballot. The Constitution requires general elections at least every 5 years; the last general elections were held in March 1999. The law obligates the Government to hold voter registration during a fixed period (of only 5 days) each year, and parties conduct their own registration drives free of government interference.

Except for a period in opposition from 1971 to 1976, the Antigua Labour Party has held power continuously since 1951. The opposition has charged that the ALP's

longstanding monopoly on patronage and its influence over access to economic opportunities make it extremely difficult for opposition parties to attract membership and financial support. In 1992 public concern over corruption in government led to the merger of three opposition political parties into the United Progressive Party.

The Commonwealth observer group that monitored the 1999 elections issued a report that noted irregularities in the electoral process and assessed the elections as free but not fair. The report indicated that the voters' register stood at 52,348 voters, of a total population of approximately 69,000 persons. Since 40 percent of the population were estimated to be below voting age, the voting rolls appeared to be inflated. According to the observer group, the voter registration period, which is limited to only a week every July, appeared too restrictive and potentially disfranchises citizens, such as persons who would reach the voting age of 18 after July but before the elections. The observer group recommended the establishment of an independent electoral commission to improve the voter registration process. By year's end, the Government had not acted on these recommendations.

There are no impediments to participation by women in government and politics, but they are underrepresented. No women have been elected or currently serve in the House of Representatives. Two women are senators, which are appointed positions. Eight of the 14 permanent secretaries (the top civil servant position in ministries) are women.

#### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

While there are no governmental restrictions, no local human rights groups have been formed. There were no requests, other than the letters from prisoners (see Section 1.c.), for human rights investigations or inquiries from individuals or international human rights groups during the year. In 1995 the Government created the post of Ombudsman. In 1999 the Ombudsman reviewed 220 cases, twice that of the previous year. The office of the Ombudsman generally is well regarded. The Ombudsman makes recommendations to the Government based on investigations into citizens' complaints; however, his recommendations often are not implemented to the satisfaction of alleged victims of government abuse and injustice.

#### *Section 5. Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status*

The law prohibits discrimination based on race, sex, creed, language, or social status, and the Government generally observed its provisions.

*Women.*—Violence against women is a recognized social problem. It is treated as a matter of public conscience, and there are nongovernmental social welfare groups focused on the problem. Women in many cases are reluctant to testify against their abusers. However, Parliament approved domestic violence legislation in January 1999, which supplements the 1995 Sexual Offenses Act. The latter provides penalties for rape and other sexual offenses. Organizations such as the Government's Directorate of Women's Affairs seek to increase women's awareness of their rights under the law. Police generally refrain from intervening in cases of domestic violence, and some women have charged credibly that the courts are lenient in such cases.

While the role of women in society is not restricted legally, economic conditions tend to limit women to home and family, particularly in rural areas, although some women work as domestics, in agriculture, or in the large tourism sector. Although the Government pledged to provide better family planning services, educational opportunities, and job training, it has been slow to implement new programs. The Directorate of Women's Affairs exists to help women advance in government and the professions, but there has been little progress.

*Children.*—The Government provides education for children through the age of 16; it is free, universal, and compulsory. Children have access to health care and other public services.

Child abuse remains a problem. While the Government has repeatedly expressed its commitment to children's rights, it has done little to protect those rights in practice. The Government still plans to establish a committee on children's rights and indicated it intends to strengthen monitoring and implementation of the U.N. Convention on the Rights of the Child. UNICEF helped support a study of the needs of children and families, and its recommendations are being used to develop a National Plan of Action on Child Survival, Development, and Protection.

*People with Disabilities.*—No specific laws mandate accessibility for the disabled, but constitutional provisions prohibit discrimination against the physically disabled in employment and education. There is no evidence of widespread discrimination

against physically disabled individuals, although the Government does not enforce the constitutional antidiscrimination provisions.

*Section 6. Worker Rights*

*a. The Right of Association.*—Workers have the right to associate freely and to form labor unions, and the authorities generally respect these rights in practice. Approximately 75 percent of workers belong to a union, and the hotel industry is heavily unionized. There are two major trade unions: The Antigua Trades and Labour Union (ATLU) and the Antigua Workers' Union (AWU). The ATLU is associated with the ruling ALP, while the larger and more active AWU is allied rather loosely with the opposition.

The Labor Code recognizes the right to strike, but the Industrial Relations Court may limit this right in a given dispute. Workers who provide essential services (including bus, telephone, port, and petroleum workers, in addition to health and safety workers) must give 21 days' notice of intent to strike. Once either party to a dispute requests that the court mediate, there can be no strike. Because of the delays associated with this process, unions often resolve labor disputes before a strike is called.

Unions are free to affiliate with international labor organizations and do so in practice.

*b. The Right to Organize and Bargain Collectively.*—Labor organizations are free to organize and bargain collectively. The law prohibits antiunion discrimination, and there were no reports that it occurred. Employers found guilty of antiunion discrimination are not required to rehire employees fired for union activities but must pay full severance pay and full wages lost by the employee from the time of firing until the determination of employer fault. There are no areas of the country where union organization or collective bargaining is discouraged or impeded.

There are no export processing zones, but there are free trade zones which facilitate services such as international banking and gambling. The Labor Code applies fully to workers in these zones as elsewhere in the country.

*c. Prohibition of Forced or Compulsory Labor.*—The Constitution forbids slavery and forced labor, including that by children, and they do not exist in practice.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The law stipulates a minimum working age of 16 years, which corresponds with the provisions of the Education Act. The Ministry of Labor, which is required by law to conduct periodic inspections of workplaces, effectively enforces this law. There have been no reports of minimum age employment violations. The law prohibits forced or bonded child labor, and it is enforced effectively (see Section 6.c.).

*e. Acceptable Conditions of Work.*—Minimum wage rates, which were established by law for various work categories in 1981, have never been revised and generally are viewed as irrelevant to current economic conditions. The Ministry of Labor periodically surveys average wages paid in various sectors and issues these as guidelines to prevailing market wages. The guidelines are not compulsory. The Ministry provides them to reflect increasing wage expectations, and to offset not having yet updated the 1981 minimum wage rates. In 1999 the guidelines indicated that employers pay an average salary of \$92.60 (EC\$250) per week, although the range of actual salaries varies widely, depending on skill level and experience. The existing published minimum wages for a variety of jobs would not provide a decent standard of living for a worker and family, and in practice the great majority of workers earn substantially more than the minimum wage.

The law provides that workers are not required to work more than a 48-hour, 6-day workweek, but in practice the standard workweek is 40 hours in 5 days. The law stipulates that workers receive a minimum of 12 days of annual leave. The law requires employers to provide maternity leave with 40 percent of wages for 6 weeks of leave, while social service programs provide the remaining 60 percent of wages. The employer's obligation ends after the first 6 weeks, but social services will continue to pay 60 percent of wages for an additional 7 weeks, covering a total of 13 weeks.

The Government has not yet developed occupational health and safety laws or regulations, but a section of the Labor Code includes some provisions regarding occupational safety and health. Plans to incorporate comprehensive legislation on safety, health, and the welfare of workers into the existing Labor Code have not been implemented. Although not specifically provided for by law, workers may leave a dangerous workplace situation without jeopardy to continued employment.

*f. Trafficking in Persons.*—There are no laws that specifically address trafficking in persons. There were no recent reports that persons were trafficked to, from, within, or through the country.

## ARGENTINA

Argentina is a federal constitutional democracy with an executive branch headed by an elected president, a bicameral legislature, and a separate judiciary. In October 1999, voters elected President Fernando de la Rúa; in December 1999, he replaced Carlos Menem of the Justicialist Party. The elections were considered free and fair. The judiciary is generally independent but is inefficient and subject at times to political influence.

The President is the constitutional commander-in-chief, and a civilian Defense Minister oversees the armed forces. Several agencies share responsibility for maintaining law and order. The Federal Police (PFA) report to the Interior Minister, as do the Border Police ("gendarmeria") and Coast Guard. The PFA also has jurisdiction in the federal capital. Provincial police are subordinate to the respective governor. Members of the federal and provincial police forces and the federal prison guards continued to commit human rights abuses.

Argentina has a mixed agricultural, industrial, and service economy. Following several years of economic growth during an economic reform and structural adjustment program, which included privatization and trade and financial sector liberalization, the economy slowed in 1998 and in 1999 entered a recession. There was no real economic growth during the year. Unemployment rose to 13.8 percent in 1999 and in October it had reached 14.7 percent. Income disparities remain a serious problem; the wealthiest 10 percent of the population received 36 percent of total personal income, while the poorest 10 percent received 1.5 percent of total personal income during the year.

The Government generally respected the human rights of its citizens; however, there were problems in some areas. Police officers continued to commit extrajudicial killings. Police torture and brutality are serious problems. In some cases the authorities investigated and sanctioned officers responsible for abuses. Prison conditions are poor. Police arbitrarily arrested and detained citizens, and lengthy pretrial detention is a problem. The judicial system is inefficient and is subject at times to political influence and to inordinate delays in trials. There were many reports of harassment, threats, and criticisms of the press by public officials. Police used violence against demonstrators on a number of occasions during the year, with one person killed as a result. Violence and discrimination against women also are problems. Child abuse and child prostitution continued to be serious problems. Anti-Semitism is a problem; however the Government took steps to combat it. Discrimination against indigenous people persist. Child labor is a problem. There were reports that women, and unconfirmed reports that children, were trafficked into the country.

The legacy of the human rights abuses of the 1976-83 military regime continued to be a subject of intense national debate, particularly the arrest of former junta leaders on charges of taking or seizing babies born to dissidents in detention and giving them to supporters for adoption. Efforts by judges in Cordoba and Bahia Blanca to institute "truth trials" in an effort to force the military to provide information on the fate of those who disappeared during the military regime met with resistance on the part of those called to testify.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Political and Other Extrajudicial Killing.*—There were no reports of politically motivated killings; however, police officers were responsible for a number of extrajudicial killings. The authorities investigated and in some cases detained, tried, and convicted the officers involved.

According to reports from nongovernmental organizations (NGO's), the police committed between 20 and 30 extrajudicial killings during the year. In July Amnesty International (AI) reported that 59 persons had died under suspicious circumstances in police stations throughout the country in the last 5 years. According to the report, of the 81 police officers implicated in the deaths, 36 were sentenced, 43 have been indicted, and 2 were cleared of charges.

On March 2, police in Buenos Aires killed two men who had taken hostages during an attempted robbery. After government negotiators failed to get the men to surrender, they entered a family home where they took three persons hostage and threatened to kill them. Government snipers then shot and killed both the hostage-takers.

AI reported that on February 16, transvestite Vanesa Lorena Ledesma, also known as Miguel Angel Ledesma, died while in police custody; the body showed signs of torture (see Sections 1.c. and 5). However, later the court denied police involvement and claimed that the victim died of a drug overdose.

On March 25, 28-year-old Jose Segundo Zambrano and 25-year-old Pablo Marcelo Rodriguez disappeared in Mendoza province. Their bloodstained car was found several days later, but their bodies were not discovered until July 3. The two men reportedly were police informants who had provided information about police officers who were involved in illegal activities. The victims' relatives and human rights organizations claimed that the killings were related to a police "mafia." By the end of July, the authorities had detained 21 officers, 4 of whom faced trial at year's end. Three were active-duty police and one was a former police officer.

In April police detained Juan Marcelo Carunchio, a 19-year-old man living in Cordoba province, on his way to a concert. A witness reported that she saw the police beat Carunchio and take him away. Following his detention, he was hospitalized in a coma and died a few days later. The authorities suspended five police officers suspected of involvement in the incident. On April 20, the authorities detained Francisco Eladio Bravo, head of the special forces unit, but further information was not available by year's end.

On July 2, two armed police intercepted a truck in Jujuy province, forced Manuel Fernandez to get out, and shot him from behind in the head. They allegedly planted cocaine and a weapon on the man and claimed that an armed encounter had taken place. On July 4, a judge ordered 10 police detained on suspicion of involvement in this case. As of November, they were still being detained, but no one had yet been charged.

In July in Corrientes province, police arrested 26-year-old Jorge Marcelo Gonzalez, whom they mistook for a car theft suspect and took him to police headquarters. They then tortured him and fatally shot him in the back of the neck. The police then attempted to convince the owner of the car to report it as stolen. On July 4, the authorities detained four police officers in connection with Marcelo's death. In July the authorities accused personnel of the Federal Penitentiary Service of ordering the murder of Gaston Maximiliano Noguera, an inmate at the Caseros prison. Noguera was one of a group of prisoners allowed to leave prison to commit crimes, apparently with the consent of the Federal Penitentiary Service officials in this prison. According to the Ministry of Justice and Human Rights, on the night of January 3, when he was supposed to have been in the Caseros prison, Noguera robbed a restaurant and killed a police officer. On January 4, he was found hanged in his cell. Carlos Sandez Tejada, a fellow inmate, claims to have killed Noguera as part of a deal made with prison officials. Noguera's prior cellmate, Miguel Angel Arribas, was going to provide testimony to the Ministry of Justice and Human Rights about the system of release for robbery but penitentiary guards shot him in December 1999 while transferring him to another prison. At year's end, the judge investigating the case was under 24-hour protection after having received threatening phone calls and a small wooden coffin sent to his home.

On November 10, in Salta province, provincial police efforts to breakup roadblocks mounted by unemployed workers resulted in the death of one protester. Incited by the violence, demonstrators later burned several buildings and looted stores in the towns of General Mosconi and Tartagal. Ultimate responsibility for the protester's death is still unresolved, with both other picketers and the provincial police potentially suspected.

The authorities have charged 10 persons, including 3 police officers, for the killing of 2 hostages trapped in a car during a bank robbery on September 17, 1999, in Villa Ramallo. One police officer, Aldo Cabral, provided the transmitter the robbers used during the bank robbery; the two others, Ramon Leiva and Oscar Parodi, reportedly were the officers who fired the shots that killed the hostages. Trial is scheduled for April 2001.

An investigation continued in the December 1999 deaths of two persons several blocks from a protest in which police fired tear gas and rubber bullets into a crowd of persons protesting the Federal Government takeover of the provincial government in Corrientes province; at least 40 persons were injured.

In April 1999, a court convicted a former chief of police of Rio Negro province and sentenced him to 26 months in prison for obstructing justice in the investigation of the November 1997 deaths of three young women in the town of Cipolletti. The authorities also charged two army officers, Claudio Kielmasz and Guillermo Gonzalez, with killing the women; their trial is scheduled for March 2001. The victims' families remain disappointed as they suspect that more than two persons were involved in the crime, and that details were covered up during the investigation.

In February in Buenos Aires province, a court convicted eight defendants, including a former police officer, of killing news photographer Jose Luis Cabezas in 1997 (see Section 2.a.).

In August in Mendoza the trial began of seven policemen and two civilians under indictment in the 1997 death of 18-year-old Sebastian Bordon. Several of these offi-

cers were among the 134 officials dismissed by Mendoza authorities on charges of misconduct in January 1999. In December a court found the officers guilty; however, it set them free because they had already served sufficient time in prison to be released. The court awarded the Bordon family compensation of \$70,000 (70,000 pesos); half to be paid by the provincial government and the other half by the four officers.

Several army officers were among 11 suspects in the investigation of an alleged coverup of the March 1994 death of army recruit Omar Carrasco. In 1996 the Federal Court of Neuquen sentenced Ignacio Canevaro to 15 years in prison, and Cristian Suarez and Victor Salazar to 10 years each, for the killing. They appealed the verdicts, and in 1996, the Supreme Court decided to uphold the lower court's decision. In April lawyers appealed the case again, this time claiming that there was substantial new evidence; however, in October, the Federal Court of Neuquen upheld its original sentence. On November 23, the authorities released both Suarez and Salazar based on a law that allows 1 year of good behavior in prison to count for 2 years of a sentence. They both served over 6 years of their 10-year sentence; Canevaro remained in prison at year's end.

Investigations continued into the 1994 bombing of the Buenos Aires Jewish community center (AMIA), in which 86 persons were killed, and the 1992 bombing of the Israeli Embassy in Buenos Aires. Fifteen former police officers have been linked to a stolen vehicle ring, which furnished the van used in the AMIA bombing, and face various criminal charges (see Section 5). The defendants' trial is scheduled for April 2001.

No new information was available in the following cases from previous years: the investigation of police officers Nestor Trotta and Roberto Martini for the killing of a youth in 1999; the investigation into the death of Carlos Andres Sutara in 1998, in which 14 police officers were implicated; the investigation of a police officer in connection with the killing of Walter Repetto in 1998; and the investigation of four police officers in the death of Juan Carlos Cardozo in 1999.

On February 9, 1998, the authorities detained five police officers from Rio Negro, including two chiefs of police, for the December 1989 murders of Sergio Sorbellini and Raquel Laguna. A court reportedly indicted the officers later that year, but all five police were later released without charges. At year's end, the investigation was still pending.

In October 1999, Spanish Judge Baltasar Garzon charged 186 persons with various crimes committed during the "dirty war" that the 1976-83 military regime conducted against alleged extremists. In November 1999, Garzon indicted the leaders of the military junta, including former military leaders General Leopoldo Galtieri, General Jorge Videla, Admiral Emilio Massera, and 95 other officers, including 1 active federal judge, on charges of torture, terrorism, and genocide. The courts had sentenced Videla, Massera, and Galtieri to life in prison in 1985, but former President Menem pardoned them in 1990. The 1986-87 "full stop" and "due obedience" laws put an end to further trials stemming from dirty war offenses. Judge Garzon continued efforts to extradite a number of Argentine citizens during the year, but the Government did not act on the requests on the basis that those charged already had been tried, convicted, and pardoned under Argentine law.

Two retired military officers were arrested overseas on the basis of international arrest warrants for abuses allegedly committed during the military regime. On August 7, on the basis of a warrant issued by France, Italian authorities arrested retired Major Jorge Olivera in Rome, charged with participation in the kidnaping of a French citizen in San Juan province in 1976. Following an extradition request presented by France in early September, the Penal Court of Appeals of Italy released him on September 19 after ruling that under Italian law, the statute of limitations for the crimes of kidnaping and torture had lapsed. Olivera returned to Argentina, but later in the month, the authorities confirmed accusations made by human rights groups that the document that had allowed his release was a false death certificate. The Italian Ministry of Justice and Human Rights and the General Prosecutor started to investigate the proceedings of the case, and at the same time French judicial authorities requested that Olivera be arrested if he should try to leave the country.

On August 24, on the basis of an arrest warrant issued by Judge Garzon in 1998 related to charges of genocide, terrorism, and torture during the military regime, Mexican officials arrested retired Lieutenant Commander Miguel Angel Cavallo in Cancun. Cavallo had been working for several years as a businessman in Mexico. At year's end, Cavallo's extradition to Spain was pending in the Mexican Justice Ministry, a decision that must be finally approved by the Mexican Foreign Minister. Argentine judicial authorities rejected Cavallo's request for extradition to Argentina.



These incidents demonstrated that while many of those accused of dirty war offenses are safe from prosecution in Argentina due to immunity laws, they run the risk of arrest if they travel abroad. In October Judge Juan Galeano filed a request with the Chilean Government for the arrest and extradition of General Pinochet for his involvement in the killing of Chilean General Carlos Prats in Buenos Aires in a car-bomb attack in 1974. The Prats killing has been under pretrial investigation for several years. At year's end, a Chilean response to the extradition request was pending and had been the subject of judicial proceedings in that country.

In March a federal court gave former naval officer Alfredo Astiz a 3-month suspended jail due to statements he made during a January 1998 interview with a news magazine in which he claimed that he was a trained killer of political and media targets. The navy stripped Astiz of his rank and retirement pay following the interview. Astiz is subject to an Interpol arrest warrant for human rights violations committed during the 1976-83 dirty war period. This warrant is based on his 1990 sentence to life imprisonment in France (where he was tried in absentia) for his role in the disappearance of the French nuns Alice Domon and Leonie Duquet. He has also been linked to the disappearance of a Swedish teenager, Dagmar Hagelin.

*b. Disappearance.*—There were no reports of politically motivated disappearances. The provincial police in Mendoza province compensated the families of Adolfo Garrido and Raul Bigorria, who disappeared in 1990 and are believed to have died in police custody, with a total of \$220,000 (220,000 pesos) as recommended in 1998 by the Inter-American Court for Human Rights.

Most reliable estimates place the number of those who disappeared during the dirty war at between 10,000 and 15,000 persons. In 1984 the National Commission on Disappeared Persons (CONADEP) issued a report listing 8,961 names of such persons, based on public testimony from friends, relatives, and witnesses. Since then the Ministry of Justice and Human Rights' Under Secretariat for Human Rights, which inherited the CONADEP files, has added over 700 new names, also based on voluntary reporting. At the same time, other names have been removed from the original list, either through confirmation of the death or survival of the person who disappeared, or through the identification of duplicate entries. The absence of documentary records of those who disappeared means that the Government must rely on public testimony, either voluntary or court-ordered. As CONADEP noted in its report, "It has been possible to determine that an important quantity of documentation existed which has been destroyed or which is being concealed by those responsible for the repression."

The Under Secretariat for Human Rights accepted claims for financial compensation from families of persons who died or disappeared during the dictatorship under a law that permitted filing of applications until May. It had received nearly 9,000 claims by the deadline; at year's end the Senate had approved a bill extending the deadline for 3 more years. A law granting former prisoners of the military regime the right to apply for compensation from the Government expired in September 1998. The Under Secretariat, which administered the law, received over 12,000 applications, and by year's end had approved over 7,000 of them. While some human rights groups routinely claim that the number of disappeared was as many as 30,000, the fact that less than half that number of applications for compensation has been received suggests the lower figure of between 10,000 and 15,000 may be more accurate.

Despite military immunity laws and pardons, investigators continued efforts to hold members of the former military regime responsible for the kidnaping and illegal adoptions of children born to detained dissidents during the dirty war. At the urging of the human rights organization Grandmothers of the Plaza de Mayo, judicial authorities continued to investigate such kidnaping and illegal adoption cases, thought to number approximately 250-300.

In December 1999, the authorities arrested retired General Guillermo Saurez Mason in connection with a child kidnaping case. In March they put 73-year-old retired General Juan Bautista Sasiain under house arrest, charged with participating in the kidnaping and concealment of 11 children of women prisoners during the military regime. Retired General Santiago Omar Riveros was arrested in August, bringing to at least nine the number of former general officers arrested in connection with baby kidnaping cases. As in the case of most of the other retired general officers, Riveros was released to house arrest due to his age. Former Army General Jorge Rafael Videla, the de facto president from 1979 to 1981, remains under house arrest, following his initial arrest in June 1998. The kidnaping cases are being investigated by three federal judges, Judges Bagnasco, Servini de Cubria, and Marquovich. By year's end, Judge Bagnasco was concluding his investigations and was prepared to turn his investigator reports over to an oral court for trials. Investigations by the two other judges continued at year's end.

In November Federal Judge Gabriel Cavallo ordered the preventive arrest of former police agents Julio Simon, known as "Julian, the Turkey", and Juan Antonio del Cerro, known as "Colors", and charged them with kidnaping 8-month-old Claudia Poblete in 1978. Poblete was the daughter of Gertrudis Hlaczik and Jose Poblete, who were detained in 1978 and are among those persons who disappeared.

In December 1999, Congress voted to block former General Antonio Bussi, who is charged with human rights abuses including torture and deprivation of liberty during the period of the dirty war, from taking his seat in the legislature. In May the lower house of Congress in an all-but-unanimous vote confirmed the earlier denial of Bussi's right to occupy a seat in that body.

In August the Supreme Court ruled against the Supreme Council of the Armed Forces, which had attempted to assert jurisdiction over the baby theft case. The Supreme Court decided that the case should continue under the jurisdiction of the civilian courts.

AI reported in May that Judge Maria Romilda Servini de Cubria and her judicial secretary Ricardo Parodi received death threats, apparently related to the investigations that the two were involved in regarding the kidnaping of children during the dirty war and other human rights abuses carried out during that period (see Section 1.e.).

In 1999 the Government created a reparation fund to be used by the Grandmothers of the Plaza de Mayo in carrying out activities to find and return children stolen from their parents during the 1976-83 military regime. The fund authorized \$600,000 (600,000 pesos) over 2 years, starting in January 1999, with the money coming directly from the national congressional budget. While full disbursement of this money has been delayed because of funding shortfalls, the fund has allowed the Grandmothers of the Plaza de Mayo to carry out a nationwide advertising campaign that resulted in more than 70 individuals coming forward to ask the organization's assistance in confirming their true identities.

In September a 23-year-old woman who had been ordered by a court to provide a blood sample for DNA analysis to determine whether she was one of the kidnaped babies was arrested and held overnight for refusing to comply. Her attorney succeeded in obtaining her release after citing her threat to commit suicide if the authorities proceeded with the forcible blood extraction.

In the disappearance case involving survivors of the Tarnopolsky family, Admiral Massera, who was ordered by the Supreme Court in September 1999 to pay \$120,000 (120,000 pesos) to a Tarnopolsky family member, refused to follow the court's directive. In November a lower court ordered Massera's "forced bankruptcy" in a further effort to oblige the former admiral to obey the earlier court order.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits torture, and the Criminal Code provides penalties for torture that are similar to those for homicide; however, police torture and brutality remain serious problems. Human rights organizations described widespread police brutality, the use of torture on suspects, and corruption within the police forces. In June 1997, the U.N. Committee against Torture criticized the Government for tolerating continued brutality and the use of torture in police stations and prisons. In December 1998, the Government responded to the U.N. Committee's criticism but did not make its reply public.

The body of a transvestite who died in police custody on February 16 reportedly showed signs of torture (see Sections 1.a. and 5.).

In March a group of police officers who were looking for the killers of a colleague in Carlos Paz (Cordoba province) fired between 15 and 20 shots at a van and beat up the 2 men in the van, a dentist, Humberto Gorriti, and businessman Raul Calvo. The police admitted later that they had made a mistake. This case remains under investigation.

In April relatives of 23-year-old Cristian Omar Lopez accused police officers of Diamante district (Entre Rios province) of beating him seriously after he and a group of friends were forced by the police for no apparent reason to leave a dancing place. At year's end, Judge Hugo Perotti was carrying out an investigation.

In July in Corrientes province, police tortured a man before killing him (see Section 1.a.).

In July Mason Aldo Bravo accused a group of officials from the Investigation Bureau of the Provincial Police of Santiago del Estero of kidnaping him for 3 days and torturing him. According to his report, the policemen broke into his house at night and attacked him. Judge Mario Castillo Sola was investigating the case.

In September police arrested 25-year-old Ariel Simonini in Tres de Febrero (Buenos Aires province) and charged him with stealing a weapon. According to Simonini, no evidence was found but before releasing him, a policewoman allowed three former police officers and a former intelligence official, who themselves were under

arrest, to torture Simonini. Simonini reported that they kicked and beat him in the stomach, head, legs and ribs. The authorities charged the policewoman as the instigator of the torture and the four men involved as participants.

Police used tear gas and rubber bullets to disperse protesters on numerous occasions, resulting in injuries (see Sections 2.b. and 6.a.). In one incident in Salta province, one protester was killed under circumstances that could have been the result of excessive use of force (see Section 1.a.).

During congressional debate over a labor reform law in April, federal police used force to suppress a group of protesters and injured over 30 demonstrators with blows and by firing rubber bullets. One demonstrator received a bullet wound from unknown sources. The Government disciplined 12 police officers for excessive use of force (see Sections 2.b. and 6.a.).

Prison conditions are poor. Many prisons and jails are overcrowded, and some facilities are old and dilapidated. According to the Federal Penitentiary Service and by the different provincial jurisdictions, in 1999 the prison system held 43,126 inmates in facilities designed to hold 23,523 persons, indicating a serious overcrowding problem.

Reliable information on medical care and food available to prisoners is unavailable, but the general impression is that such services are minimal and of low quality. The Buenos Aires provincial government has considered various solutions, including renting temporary warehouse quarters, and was considering building 18 new prisons in various police districts, but had taken no action to do so by year's end.

Pretrial prisoners cannot be held together with convicted prisoners, but reliable reports indicate that this form of prisoner separation often is not respected. Separate facilities for men and women and for adults and minors are provided for under the law and are available in practice. Facilities for women and for minors are not subject to the same serious overcrowding as prison facilities for men.

Security is a problem at some prisons and detention facilities, at times resulting in jailbreaks. In 1999 there were 60 reported cases of prison riots in facilities around the country.

The Government permits prison visits by independent human rights monitors.

*d. Arbitrary Arrest, Detention, or Exile.*—The Penal Code limits the arrest and investigatory power of the police and the judiciary; however, provincial police sometimes ignored these restrictions and arbitrarily arrested and detained citizens. Human rights groups find it difficult to document such incidents and state that victims are reluctant to file complaints because they fear police retaliation or do not believe that their complaints would result in any action.

Police may detain suspects for up to 10 hours without an arrest warrant if the authorities have a well-founded belief that suspects have committed, or are about to commit, a crime, or if they are unable to determine the identity of a suspect. However, human rights groups argue that this provision of law is abused widely, that police often ignore the requirement that suspects must be unable to identify themselves, and often detain suspects who in fact do have identification.

Police occasionally detain teenagers and young adults, sometimes overnight, sometimes for an entire weekend, without formal charges. They do not always provide such detainees with the opportunity to call their families or an attorney. These detainees are released only upon a complaint from relatives or legal counsel.

In March 1999, the Federal Government promulgated Decree 150, which instructs police to prevent conduct that “without constituting misdemeanors nor infractions in the code of misdemeanors, should be avoided.” This decree is interpreted to allow the police to detain persons for carrying suspicious objects or potential weapons. Critics complained that the decree revived the old police edicts that had been in effect until the Buenos Aires City Council passed its Code of Misdemeanors in March 1998. Human rights groups long had argued that these edicts were used as an excuse for arbitrary detentions, particularly of young persons, immigrants, prostitutes, and transvestites.

The law allows pretrial detention for up to 2 years, and the slow pace of the justice system often results in lengthy pretrial detentions. If convicted, a prisoner usually receives credit for time already served. Three-fourths of the inmates in the federal prisons of the greater Buenos Aires area were reportedly in pretrial detention. In the prison system of the province of Buenos Aires, this figure was reported to be as high as 90 percent. The law provides for the right to bail, and it is utilized in practice.

The law does not permit forced exile, and it is not used.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, while the judiciary is nominally independent and impartial, its processes are inefficient, and at times subject to political influence. The system is ham-

pered by inordinate delays, procedural logjams, changes of judges, inadequate administrative support, and incompetence. Allegations of corruption are reported widely, especially in civil cases.

The judicial system is divided into federal and provincial courts, each headed by a Supreme Court with chambers of appeal and section courts below it.

The Council of Magistrates has responsibility for submitting to the President for his decision a slate of three qualified candidates for each federal judicial vacancy. The council is also responsible for conducting impeachment hearings on judges implicated in wrongdoings and for general administration of the federal court system. It began the process of selecting candidates for judicial vacancies in several parts of the country in September 1999. Nonetheless, it still does not function fully; the number of judicial vacancies has increased significantly, and a number of impeachment cases against judges remain to be resolved. The council made its first recommendations to the executive on the appointments of new judges in July. Of the candidate lists advanced to him by the Council of Magistrates, President de la Rúa nominated two judges during the year. However, the Senate confirmed neither judge, as is required by law. At year's end, there were federal judicial vacancies for more than 113 positions nationwide. A number of prominent cases to discipline judges were initiated during the year, but were moving extremely slowly through the investigation process.

Trials are public, and defendants have the right to legal counsel and to call defense witnesses. A panel of judges decides guilt or innocence. The law does not mandate a trial by jury. Federal and provincial courts continued the transition to oral trials in criminal cases, instead of the old system of written submissions. However, substantial elements of the old system remain. For example, before the oral part of a trial begins, judges receive written documentation regarding the case, which, according to prominent legal experts, can bias a judge before oral testimony is heard. Lengthy delays in trials are a problem.

AI reported in May that Judge Maria Romilda Servini de Cubria and her judicial secretary Ricardo Parodi received death threats, apparently related to the investigations that the two were involved in regarding the kidnaping of children during the dirty war and other human rights abuses carried out during that period (see Section 1.b.). AI called on the Government to protect the work of Judge Servini and Parodi.

In June 1998, the Government allowed Father Juan Antonio Puigjane to leave prison and serve the remainder of his term under house arrest. Puigjane, a Capuchin monk, was a leader of the leftist "All for the Fatherland" movement, which in 1989 assaulted the La Tablada army barracks. Although he did not take part in the assault and denied any foreknowledge of it, the court sentenced him to 20 years in prison. Members of the movement who were involved in the 1989 attack are recognized by some international human rights groups as having been jailed for political reasons, but the Government maintains that those involved were tried and convicted properly of involvement in a violent rebellion against a democratically elected government.

The release of Puigjane followed the publication of a 1997 report by the Inter-American Commission on Human Rights (IACHR) on La Tablada, in which the IACHR absolved the Government of the use of excessive force in repelling the assault but concluded that the Government committed human rights violations after the attackers had surrendered. The IACHR also found that the Defense of Democracy Act, under which the La Tablada defendants were tried and convicted, effectively denied them the right of appeal.

In September the La Tablada prisoners launched a hunger strike to bring further pressure on the Government to act on their demand for an appeal. Efforts since 1998 to pass legislation that would have allowed the defendants a chance to appeal their earlier convictions ended in December when the legislation failed to gain the necessary support in both chambers of Congress. Following that, the Supreme Court rejected by a vote of 5-4 a request by the defendants for an appeal. With the legislative and judicial routes thereby closed, on December 29, the President, still under strong international pressure from the IACHR and a wide range of human rights groups, signed a decree commuting the sentences of 11 of the 13 defendants. With these commutations, 9 of the 13 defendants will be eligible for a parole hearing in 2002, one in 2003, and one in 2005. The two leaders of the assault, Enrique Gorriaran and his wife, Ana Maria Sivori, were convicted for their roles at La Tablada only in 1997. Since they were not tried under the Defense of Democracy Act, they were allowed an appeal, which confirmed their earlier life sentences. For this reason, they were not included in the December 29 presidential decree. As a result of the presidential decree, the La Tablada defendants ended their hunger strike after 116 days.

There were no other reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such practices, and the Government generally respects these prohibitions. Violations are subject to legal sanction. In practice, local police stop and search individuals without probable cause.

Several highly publicized cases of unauthorized telephone wiretaps in recent years raised public concern, and the Government introduced a bill in Congress in 1998 to prevent such activities, including the unauthorized recording of telephone conversations, the unauthorized photographing or filming of private acts, and the dissemination of such unauthorized records. Various draft laws have been proposed on the control of wiretapping, but none became law during the year. The use of wiretaps approved by a federal judge continued to be governed by a decree issued by then-President Menem in the early 1990's.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the Government generally respects these rights in practice; however, there were several reports that public officials harassed, threatened, and criticized the press.

A number of independent newspapers and magazines publish freely, and all print media are owned privately. Privately owned radio and television stations broadcast freely. The Federal Government owns the Telam wire service, a television station, and a radio network. A few provincial governments also own broadcast media.

During the year there were several reports of harassment and threats against journalists, and criticisms of the press by public officials. In its annual report released in September, the Argentine Association of Journalistic Entities (ADEPA), a media observer organization, reviewed several incidents and noted that they occurred principally in the provinces.

In July ADEPA expressed its concern to the provincial government in Santiago del Estero with respect to an incident in which the telephones of *El Liberal*, a local daily newspaper, were wiretapped. The incident occurred after *El Liberal* published a story on an alleged intelligence gathering network sponsored by the provincial government. The Inter-American Press Association (IAPA) criticized anonymous threats against three of *El Liberal*'s journalists and the distribution of pamphlets with defamatory information about *El Liberal*. IAPA representatives met with Interior Minister Storani and expressed their concern over the situation in Santiago del Estero. In November the IAPA sent a delegation to Santiago del Estero to investigate the charges.

In July the Cordoba daily newspaper *La Voz del Interior* reported the harassment of one of its distributors. An attacker ambushed and threatened the driver of a distribution van with a revolver. The IAPA reported that the attackers informed the driver that the governor was uncomfortable with the content of paper. This incident occurred after *La Voz* published a series of articles on the questionable practices of provincial government officials of Santiago del Estero, which included accusations of wiretapping and having blueprints of reporters' homes.

In February an appeals court ordered television talk show host Bernardo Neustadt and Zidanelia Pacheco de Maroneses, whom Neustadt interviewed on his program *New Times*, to pay punitive damages to Judge Elisa Diaz de Vivar in the amount of \$80,000 (80,000 pesos) for allegedly defamatory comments de Maroneses made in 1993 about the judge during the program. The IAPA stated that the award was a setback for the freedom of the press because it would force journalists to censor those they interview, and because it provides special privileges to public officials, who should be open to public scrutiny.

In view of these incidents, many key media sources criticized the apparent lack of commitment on the part of some legislators to implement measures that would protect the role of the media as a "bridge" between politics and civil society, and cited the failure of some public officials to recognize openly the role of an independent media in a democratic society. ADEPA stated that these incidents violated freedom of the press and have recurred in recent years in a systematic fashion.

In February the District Court of Dolores (Buenos Aires province) sentenced to jail terms the eight persons charged with and found guilty of the highly publicized 1997 murder of photo-journalist Jose Luis Cabezas of the weekly magazine *Noticias*. The court sentenced some to life sentences without parole, and gave the others life sentences with parole. Although never confirmed, many believe Cabezas was murdered by operatives of the late businessman Alfredo Yabran for photos and stories that he produced regarding Yabran's alleged illicit activities. ADEPA expressed satisfaction with the sentencing of those charged with Cabezas' murder. The IAPA stated that the verdict was a step in the fight against impunity for those who violate freedom of the press. Cabezas' family, however, believes that the intellectual authors

of Cabezas' murder remain free, and that the incarceration of the eight persons who were found guilty does not put an end to the case.

No new information was available regarding the death of newspaper editor Ricardo Gangeme, who was killed in May 1999 in Chubut province.

In November the Supreme Court upheld Eduardo Kimel's 1999 sentence to 1 year in prison (suspended) and a fine of \$20,000 (20,000 pesos) for comments made in a book he wrote. In December the IACHR announced that the case will be investigated as a possible violation of the right to free speech.

The law provides for academic freedom, and the Government respects this in practice.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution and the law provide for freedom of assembly, and the Government respects this right in practice. However, provincial police clashed with public sector protesters on a number of occasions during the year, using rubber bullets and tear gas to disperse protests that turned violent. In some incidents the police used deadly force against demonstrators (see Sections 1.a. and 1.c.).

During congressional debate over a labor reform law in April, labor groups led a march on the Congress. Clashes between protesters and the federal police resulted in injuries to over 30 demonstrators, including injuries from rubber bullets fired by police (see Sections 1.c. and 6.a.). In May several protesters and police officers were injured after the authorities used rubber bullets and tear gas to break up the protest (see Section 6.a.).

An investigation continued into the December 1999 deaths of 2 persons near an area in which the police injured over 40 protesters who were demonstrating against the Federal Government's takeover of the provincial government of Corrientes (see Section 1.a.).

The Constitution and the law provide for freedom of association, and the Government respects this right in practice.

*c. Freedom of Religion.*—The Constitution states that the Federal Government "sustains the apostolic Roman Catholic faith;" however, other religious faiths are practiced freely. The Government provides the Catholic Church with a variety of subsidies totaling \$8 million (8 million pesos), administered through the Secretariat of Worship in the Ministry of Foreign Relations, International Trade, and Worship. The Secretariat was transferred from the office of the presidency following the inauguration of President Fernando de la Rúa in December 1999. The Secretariat is responsible for conducting the Government's relations with the Catholic Church, non-Catholic Christian churches, and other religious organizations in the country. Religious organizations that wish to hold public worship services and to obtain tax exempt status must register with the Secretariat, and must report periodically to the Secretariat in order to maintain their status.

*d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution and laws provide for these rights, and the Government respects them in practice.

A committee composed of representatives of the Ministries of Justice, Foreign Affairs, and the Interior determines grants of refugee status, using the criteria of the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. A representative of the U.N. High Commissioner for Refugees may participate in committee hearings, but may not vote. The Government has granted refugee status to numerous persons and accepted refugees for resettlement. The issue of the provision of first asylum did not arise during the year.

In March 1999, the Government granted asylum to former Paraguayan General and coup plotter Lino Oviedo, who fled that country after the assassination of Paraguayan Vice President Luis María Argana, in which Oviedo allegedly was implicated. Oviedo was granted asylum under the condition that he would not participate in political activities. In September 1999, the authorities determined that he had been politically active from his base in Buenos Aires and ordered him moved to Tierra del Fuego province in Patagonia. Oviedo remained there until he fled the country in December 1999; in June he was captured in Brazil.

In September two Paraguayans, Luis Alberto Rojas and Fidencio Vega Barrios, wanted for extradition to Paraguay for their alleged involvement in the 1999 assassination of the Paraguayan Vice President, escaped from the National Police Headquarters in Buenos Aires where they were being held. The authorities had detained them since February; police collusion in the escapes was suspected. At year's end, the two men had not been found and were thought to have fled the country.

There were no reports of the forced return of persons to a country where they feared persecution.

*Section 3. Respect for Political Rights: The Right of Citizens to Change their Government*

The Constitution provides citizens with the right to change their government peacefully, and citizens exercise this right in practice through periodic free and fair elections held on the basis of universal suffrage. In October 1999, voters elected Fernando de la Rúa, leader of an alliance of opposition parties, as president; he succeeded President Carlos Saul Menem of the Justicialist party on December 10, 1999.

In December 1999, President de la Rúa requested and received congressional permission to suspend all three branches of the Corrientes provincial government and take direct federal control of the province. Public workers, including teachers, court workers, and public hospitals had been on strike or limiting services for much of the year, due to the provincial government's inability to pay salaries. The situation remained tense in the province during the year; in December, Congress passed legislation that extended the suspension of the Corrientes provisional government for 1 additional year.

There are no legal impediments to participation by women and minorities in politics and government; however, they remain underrepresented. The Constitution stipulates that the internal regulations of political parties and party nominations for elections be subject to requirements to increase women's representation in elective offices. A 1991 law mandates the use of gender quotas by all political parties in national elections. A 1993 decree requires that a minimum of 30 percent of all political party lists of candidates be female. As a result, the presence of women in Congress increased. About one-fourth of the 257 members of the lower house are women. Gender quotas have not applied in the Senate, where there are only 2 female members in the 72-person body. However, a December presidential decree mandates that for future elections in the Senate (with the full chamber being competed in 2001 in first-ever direct elections), at least one-third of all Senators elected must be women. There are two female cabinet-level officials, the Minister of Social Development and Environment and the Minister of Labor, Employment, and Human Resources Training. There are no women justices on the Supreme Court.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A wide variety of domestic and international human rights groups operate without government restriction, investigating and publishing their findings on human rights cases. The Government is generally cooperative, although not always responsive to their views.

Some of the best-known human rights organizations include the Mothers of Plaza de Mayo, the Center of Legal and Social Studies, the Permanent Assembly for Human Rights, Service for Peace and Justice, and New Rights of Man. Within the federal government, the Ministry of Justice and Human Rights' Secretariat for Human Rights addresses human rights concerns at a domestic level. Human rights issues at the international level are handled by the Office of the Special Representative for International Human Rights of the Ministry of Foreign Relations, International Trade, and Worship.

In July the new chief of the army appointed by President de la Rúa proposed to establish a dialog among the Government, military, and human rights groups that would attempt to shed light on past abuses committed during the military regime. The proposal largely was rebuffed by human rights organizations, many of which oppose any contact with those officials whom they believe to be guilty of human rights abuses committed by the security forces during the dirty war period.

In November Congress passed a law calling for the human rights commissions of both chambers to write an annual report on human rights in the country, commencing in 2001.

*Section 5. Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status*

The Constitution and law provide for equal treatment for all citizens, and the law provides for prison terms of up to 3 years for discrimination based on race, religion, nationality, ideology, political opinion, sex, economic position, social class, or physical characteristics.

The National Institute against Discrimination, Xenophobia, and Racism (INADI), an agency of the Ministry of Interior, has as its mandate identifying and combating all forms of intolerance in the country. INADI investigates violations of the anti-discrimination law and carries out educational programs to promote social and cultural pluralism and combat discriminatory attitudes. However, early in the year, INADI began a process of reorganization and leadership change, during which its

effectiveness was impaired seriously. With new leadership, the institute was active again by year's end.

In April an AI report expressed concern over reports that police targeted, tortured, and harassed gays, lesbians, and bisexuals. The report included information regarding the February death in police custody of a transvestite whose body showed signs of torture (see Sections 1.a. and 1.c). AI noted that police bylaws and provincial codes of misdemeanors allow police to detain or sanction members of sexual minorities for actions that do not constitute a criminal offence. The Association Against Homosexual Discrimination filed a complaint to the Office of the Human Rights Ombudsman in Cordoba regarding such treatment.

*Women.*—Domestic violence and sexual harassment against women are widely recognized as serious social problems. However, few official statistics on these crimes are available, so any accurate measure of the problems is difficult. The Government, through the National Council of Women, recently implemented a new database system, with the help of UNICEF, to standardize statistics on domestic violence, permit a more accurate evaluation of the scope of the problem, and promote better public policy. During the year, as part of a pilot project, two workshops provided training on the use of the software for this purpose.

Any person suffering physical or psychological domestic violence by a family member can file a formal complaint before a judge, with the level of injury inflicted determining the punishment under the civil and criminal codes. In addition, the Law on Protection Against Family Violence gives a judge the right to prevent the perpetrator of a violent act from entering the home or place of work of the victim, and temporarily to decide issues of family support, child custody, and arrangements for communication with children.

No statistics on domestic violence were available on a national level. However, as an indicator of the magnitude of the problem, in 1999 the city of Buenos Aires received 25,630 telephone calls regarding family violence. Courts in the city of Buenos Aires received 1,289 formal complaints through August, compared with 2,160 in all of 1999.

Rape is a problem, but reliable statistics as to its extent were not available. The crime of rape falls under the Law of Crimes Against Sexual Integrity, the name of which was changed in 1999 from the former Law of Crimes Against Honesty. This name change, sought by various women's rights groups, recognized that the nature of the crime is not a violation of female purity and chastity, but of the personal integrity of the victim. Marital rape and acquaintance rape are recognized by law, if force is involved, but the need for proof, either in the form of clear physical injury or the testimony of a witness, often presents a problem. The 1999 law expanded the definition of punishable sexual violations beyond forcible intercourse and increased the severity of punishments; in addition, it is no longer possible for an accused rapist to be excused from prosecution by offering to marry the victim. The penalties for rape vary from 6 months to 20 years and depend on the nature of the relationship between the rapist and victim and the physical and mental harm inflicted.

Public and private institutions offer prevention programs and provide support and treatment for women who have been abused, but transitory housing is almost nonexistent. The Buenos Aires municipal government operates a small shelter for battered women and a 24-hour hot line offering support and guidance to victims of violence, but few other shelters exist. NGO's working in the area of women's rights stress that women too often do not have a full understanding of their rights. Women lack information about what constitutes sexual harassment, what can be considered rape, or when physical and emotional abuse is considered a punishable crime.

During the year, Paraguayan authorities uncovered a trafficking ring that sent women and young girls to Buenos Aires, under the guise of working as domestic servants, and then forced them into prostitution (see Sections 6.c and 6.f.).

Despite legal prohibitions, women encounter economic discrimination and occupy a disproportionate number of lower paying jobs. Often they are paid less than men for equivalent work, even though this is prohibited explicitly by law. Working women also are represented disproportionately in the informal sector, where effectively they are denied work-related economic and social benefits enjoyed by registered workers. According to government statistics, in 1999 the underemployment rate for women was twice as high as that of men, and women in general earned 30 percent less than men. The wage differences were more pronounced at higher levels of education; for example, women with a college degree earned 46 percent less than men.

In 1992 the Government created the National Council of Women, an interagency organization under the authority of the President's Cabinet Chief, that carries out programs to promote opportunity for women in the social, political, and economic arenas. The new administration named Dr. Carmen Storani as the Council's Presi-



dent. The Council operates a web site that provides information on the organization and on issues relevant to the organization's goals.

*Children.*—While the Government voices strong commitment to issues of children's rights and welfare, including education and health, increasingly tight federal and provincial budgets mean that programs relevant to these areas continue to receive insufficient funding. The Ministry of Justice and Human Rights' Under Secretariat for Human and Social Rights works with UNICEF and other international agencies to promote children's rights. Education is compulsory, free, and universal for children up to the age of 15; however, adequate schooling is unavailable in some rural areas. There are numerous health care programs for children, although not all children have access to them.

NGO's and church sources indicate that child abuse and prostitution are increasing, although no statistics were available. The National Council for Minors and Family, a government organization reporting to the Ministry of Social Development and Environment, has developed an Action Plan, together with the Attorney General, the Ministry of Justice and Human Rights, the National Council of Women, and UNICEF, on the elimination of child prostitution. The most recent census (in 1991) noted that 4.5 million children under age 14 lived in impoverished conditions. There are street children in some large cities, although there are no reliable statistics on their numbers. There were unconfirmed press reports that Bolivian children sometimes were sold to sweatshops in Argentina (see Section 6.f.).

A May UNICEF report stated that sexual exploitation of children is widespread due to police inefficiency and lack of judicial intervention. The report indicated that the problem is substantial, but statistics on this crime were not available. The children involved usually work in the same institutions as adults. There were reports of children being trafficked from rural areas to urban areas of the country, and vice versa. Women and girls also are trafficked from other countries, although this reportedly involves very few underage girls (see Section 6.f.).

*People with Disabilities.*—A 1994 law intended to eliminate barriers for disabled persons mandates standards regarding access to public buildings, parks, plazas, stairs, and pedestrian areas. Street curbs, commuter train stations, and some buildings in Buenos Aires have been modified to accommodate wheelchairs, but many public buildings and lavatories are still inaccessible to the disabled. The Buenos Aires subway system installed a small number of elevators and escalators to facilitate use of the subway system by the disabled, and the subway administration pledged to increase the overall number of escalators in the system.

The law prohibits discrimination against disabled persons in employment, education, and the provision of other state services, and mandates access to buildings for the disabled. There has been some progress in these areas. The National Advisory Commission on the Integration of People with Disabilities—a governmental office—and numerous nongovernmental groups actively defend the rights of the disabled and help them to find employment.

*Indigenous People.*—The Constitution recognizes the ethnic and cultural identities of indigenous people and states that Congress shall protect their right to bilingual education, recognize their communities and the communal ownership of their ancestral lands, and allow for their participation in the management of their natural resources. However, in practice, indigenous people do not participate in the management of their lands or natural resources. The National Institute of Indigenous Affairs (INAI) is the government agency responsible for implementing these provisions.

The principal indigenous groups—the Kollas in Salta and Jujuy, the Mapuches in the Patagonian provinces, and the Wichis and Tobas in the northern provinces—represent less than 5 percent of the national population. The INAI estimates that there are approximately 700,000 indigenous people, most of whom reside in rural areas. However, the nongovernmental Indigenous Association of the Argentine Republic estimates the indigenous population at 1.5 million persons. Other demographers in recent years have provided estimates of at most 450,000 persons. To clarify the discrepancy, the national census scheduled to take place dueple do bway administration

Since 1994 the Government restored approximately 2.5 million acres of land to indigenous communities. Nonetheless, some communities were involved in land disputes with provincial governments and private companies.

*Religious Minorities.*—Anti-Semitism is a problem; however the Government took significant steps to initiate a public dialog intended to highlight past discrimination, and to improve religious tolerance. Combating this and other forms of intolerance is a priority for the INADI. There were a number of reports of anti-Semitic acts, of anti-Semitic violence, and of threats against Jewish organizations and individuals during the year. During the year, however, no one was convicted for any anti-Semitic acts.

In February a Jewish country club in San Miguel received bomb threats. Following an evacuation of the building, it was established that the threats were spurious. Since it reopened in 1999, there have been several telephoned bomb threats made against the new AMIA Jewish community center building (which replaced the one destroyed by the bombing in 1994). No one has taken responsibility for the bomb threats, nothing was found in the building on these occasions, and no formal investigations were undertaken into the bomb threats.

In April several adolescents allegedly vandalized several tombs in the Jewish cemetery at Posadas, in Misiones province. Local police subsequently arrested seven adolescents between the ages of 12 and 17 in connection with the crime, but the police maintained that the acts of vandalism had no religious connotations.

Most published reports of antireligious acts were anti-Semitic in nature. However, in June statues of Jesus Christ and Saint Augustine were vandalized at a Catholic Church in Buenos Aires. No arrests were reported at year's end.

In January President de la Rúa committed the Government to implementing a Holocaust Education Project to be carried out under the auspices of the International Holocaust Education Task Force. During the year, the Government appointed a special representative to the task force, began a number of projects including a Holocaust monument in Buenos Aires, and donated a building for a Museum of the Shoah. The Ministry of Education is working to include Holocaust education in primary and secondary schools, and the schools now commemorate a national day of tolerance on April 19. In June the Government renewed the charter of the National Commission for Clarification of Nazi Activities (CEANA), in order to enable CEANA to continue its investigations into past pro-Nazi actions on the part of Argentina. In June President de la Rúa made a formal apology for Argentina's acceptance of Nazi war criminals as immigrants after World War II.

The authorities continued to investigate the 1992 bombing of the Israeli Embassy in Buenos Aires and the 1994 bombing of the AMIA Jewish community center, in which 86 persons died.

In May 1999, the Supreme Court (which is responsible for leading the investigation into the embassy bombing) released a report that concluded that the embassy bombing was the result of a car bomb. The court also formally determined that Islamic Jihad was responsible for the bombing, based on claims made by the group following the attack and on similarities with other bombings claimed by the group. In September 1999, the court issued an international arrest warrant for Islamic Jihad leader Imad Mughniyah. In December 1999, the court released a more extensive finding on the bombing, which encompassed the May report.

In late 1999, the Government sought the arrest and extradition of Mohammad Abbas Malik for questioning about the bombing. When he was arrested overseas on other charges, the authorities interviewed him in September, and he denied any connection with the Israeli Embassy bombing. Following the interview, the Government indicated that it had no further interest in Malik with in connection to the 1992 bombing.

In the AMIA case, the investigating judge determined in February 1999 that there was insufficient evidence to charge Iranian Nasrim Mokhtari, long suspected of complicity in the bombing. In July 1999, the Supreme Court ruled that she could leave the country. Wilson dos Santos, who reportedly had linked Mokhtari to the bombing, recanted his testimony in 1999 from earlier that year; the press reported in July 1999 that he had offered to return and testify in exchange for money. An investigator interviewed him in Brazil in 1999, evaluated the proposed testimony, and rejected his offer. However, subsequently the authorities decided to issue charges against Wilson dos Santos, and he was arrested in Switzerland and extradited to Argentina in December. He was charged with having given false testimony in the AMIA case, and the authorities still hope that he will be able to shed light on the events leading up to the 1994 attack.

In July 1999, the authorities brought formal charges against all the suspects being held in connection with the attack, including a number of former Buenos Aires provincial police officers. Fifteen former police officers have been linked to a stolen

vehicle ring, which furnished the van used in the bombing, and face various criminal charges (see Section 1.a.). The provincial police officers and others held in the AMIA case are suspected accessories to the crime and not those who are thought to have planned or executed the actual attack. In late February, the investigating judge formally presented for trial the report on his investigation regarding these suspected accessories. The defendants face charges of various acts of police corruption related to the vehicle used in the bombing. At year's end, Judge Galeano's investigation aimed at finding the actual perpetrators of the bombing continued.

In April President de la Rúa created a new task force of four independent prosecutors to investigate certain areas relating to the AMIA case. On the sixth anniversary of the AMIA bombing, President de la Rúa and much of his Cabinet attended a solemn ceremony commemorating the victims at the now-rebuilt cultural center.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution provides for the right to form “free and democratic labor unions, recognized by simple inscription in a special register,” and this right is observed in practice. With the exception of military personnel, all workers are free to form unions. An estimated 35 percent of the work force is organized. Trade unions are independent of the Government and political parties, although many union leaders traditionally have supported the Justicialist Party. Most unions are affiliated with the General Confederation of Labor (CGT). A smaller federation, the Argentine Workers' Central, also is recognized legally. In the early part of the year, the CGT split into two factions, an “official” faction and a “dissident” faction, the latter of which conducted numerous marches and demonstrations—some of which became violent—in an effort to pressure the Government to take a more prolabor stance.

The International Labor Organization's (ILO) Committee of Experts has criticized the law, which allows only one union per industrial sector to negotiate salary, collect dues, and call a strike. The law makes it virtually impossible for new unions to challenge existing unions, thus giving the established unions a monopoly on these fundamental powers of representation. On November 21, the Labor Minister formed a tripartite commission to analyze the ILO observations, including this issue.

During congressional debate over a labor reform law in April, labor groups led a march on the Congress that was suppressed by the federal police, who injured over 30 demonstrators with blows and by firing rubber bullets. Ten police officers were injured in the altercation. One demonstrator received a bullet wound from unknown sources. The Government disciplined 12 police officers for excessive use of force (see Sections 1.c. and 2.b.).

The Constitution provides for the right to strike, and this right is observed in practice. Two national general strikes took place during the year. The first in June effectively shut down most public transportation, government offices, and schools throughout the country as millions of workers representing the three major labor federations protested the May reduction in government salaries, tax hikes, and other expenditure reductions as part of the Government's austerity plan. The second national general strike took place November 23-24, again with the support of all three major labor federations. This strike, in protest of labor reforms and further economic austerity measures, was more successful than the June strike in shutting down not only most public transportation, government offices and schools, but also many stores and businesses. While the November strike was generally peaceful, some prestrike acts of intimidation allegedly by union activists against bus and taxi companies left a number of busses and taxis damaged or burned in Buenos Aires and in other cities around the country. The police arrested no strikers or activists as a result of any of these incidents. In Cordoba, police made 10 arrests and there were at least 9 injuries in an effort to break up a demonstration by municipal workers. During the year, there also were scattered local work stoppage, and several unions, including transport workers, farmers, and teachers initiated numerous local and nationwide strikes to protest various issues including government labor policies, as well as nonpayment and late payment of wages by private companies.

Groups of unemployed and underemployed workers around the country frequently used roadblocks as acts of protest. Hundreds of small incidents took place, with groups of activists blocking roads and highways. Some of these roadblocks were spontaneous actions by groups demanding continuation of federal and provincial unemployment payments and job subsidy programs that were expiring. Others were organized by radical labor and social groups such as the Classicist Combative Movement. While most roadblocks were resolved by negotiated settlements, usually including promises of extended unemployment programs, a number ended in confrontations between the police and strikers. In May the provincial and border police in Salta province used force to disperse truckers at roadblocks, who were protesting

the withdrawal of government funds from a job subsidy program. Several protesters and police officers were injured after the authorities used rubber bullets and tear gas to disperse the protesters. Protesters allegedly looted shops and set a townhall on fire. On November 10, again in Salta province, provincial police efforts to break up roadblocks resulted in the death of one protester (see Section 2.b.). Incited by the violence, demonstrators burned several buildings and looted stores in the cities of General Mosconi and Tartagal. The Federal Government criticized the provincial government's use of force but resisted calls for federal intervention.

Unions are free to join international confederations without government restrictions; many unions also are active in international trade secretariats.

*b. The Right to Organize and Bargain Collectively.*—The Constitution provides unions with the right to negotiate collective bargaining agreements and to have recourse to conciliation and arbitration, and these rights are observed in practice. The Ministry of Labor, Employment, and Human Resources Formation ratifies collective bargaining agreements, which cover roughly three-fourths of the work force. According to the ILO, the ratification process impedes free collective bargaining as the Ministry not only considers whether a collective labor agreement contains clauses violating public order standards, but also considers whether the agreement complies with productivity, investment, technology and vocational training criteria. In recent practice, however, the Government has not refused to approve any collective agreements under the above criteria.

The Labor Reform Law, which went into effect in May, allows collective bargaining on a regional, provincial, or company basis depending on what the local union and company decide. Prior law only permitted negotiations by the heads of the national union on behalf of all the unions in the sector.

The new law also established a mediation service, which was being organized at year's end. Foreign experts, as part of an Organization of America States project, conducted a 1-week training in mediation for labor professionals, particularly government officials.

The new Labor Reform Law lengthened the probationary period for new workers from 30 days to between 90 and 120 days for large companies and to between 6 months and 1 year for small businesses. The new law also ended the practice known as "ultra-activity," which allows existing labor contracts to be renewed if the parties cannot come to terms on a new agreement.

Some labor unions strongly opposed the reform legislation. In August their opposition was strengthened when a bribery scandal emerged over alleged payments to key Senators to encourage votes in favor of the legislation. Most significantly, implementing regulations for the new labor reform law were still in the process of being developed at year's end, with no clear indication of when they would be approved. This fact, and an inconclusive closing in December of the judicial investigation into the alleged bribes, left the final impact of the new legislation unclear.

The law prohibits antiunion practices, and the Government enforces this prohibition.

There are three functioning export processing zones (EPZ's) with many others legally registered but not active. The primary commercial advantages of these zones are related to customs and duty exemptions. The same labor laws apply within these zones as in all other parts of the country.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, and there were no reports that it was used; however, there were reports that women were trafficked to the country (see Sections 5 and 6.f.). The law also prohibits forced and bonded labor by children; however, there were unconfirmed reports that children were trafficked to the country to work in sweatshops (see Section 6.f.).

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The law prohibits employment of children under 15 years of age, except in rare cases where the Ministry of Education may authorize a child to work as part of a family unit; however, child labor does occur in practice and may be increasing. Children between the ages of 15 and 16 may work in a limited number of job categories, but not more than 6 hours a day or 35 hours a week. The penalty for employing underage workers ranges from \$1,000 to \$5,000 (1,000 to 5,000 pesos) for each child employed. On August 25, the President decreed the formal establishment of a National Commission for the Eradication of Child Labor, which is to work with the Government, organized labor, the business community, religious groups, UNICEF, and NGOs. Labor Minister Patricia Bullrich appointed Leandro Haleprin to head the commission.

A 1993 law requires that all children receive a minimum of 9 years of schooling, beginning at age 6. Government census figures indicate that about 5 percent of children between the ages of 6 and 14 are employed, most with older family members.

Local NGO's note that the figure is imprecise and could be as high as 10 percent. In 1999 in the greater Buenos Aires area, 12,500 children age 14 and below were in the work force. In a 1997 report, UNICEF stated that 252,000 children between the ages of 6 and 14 were employed—183,500 in urban areas and 68,500 in the country—principally harvesting tea and tobacco. An August UNICEF report on adolescents found that, for children between ages 13 and 17, 3 percent were in school and also economically active; 7 percent were not in school but were economically active; 84 percent were only in school; and 6 percent were neither in school nor working.

The Government prohibits forced and bonded child labor, and there were no confirmed reports of its use; however, there were unconfirmed press reports that children were trafficked to the country to work in sweat shops (see Sections 6.c. and 6.f.).

*e. Acceptable Conditions of Work.*—The monthly national minimum wage is \$200 (200 pesos), which is not sufficient to provide a decent standard of living for a worker and family. It is determined by a tripartite committee and has not been changed for at least 5 years.

Federal labor law sets standards in the areas of health, safety, and hours. The maximum workday is 8 hours, and the maximum workweek is 48 hours. Overtime payment is required for hours worked in excess of these limits. The law also sets minimums for periods of rest and paid vacation. However, enforcement of laws governing acceptable conditions of work is not carried out universally, particularly for workers in the informal sector who constitute about 40 percent of the work force.

Employers are required by law to insure their employees against accidents at the workplace, and when traveling to and from work. In December a presidential decree increased the maximum cash payments and maximum total payments for workers' compensation in an effort to strengthen worker protections. Workers have the right to remove themselves from dangerous or unhealthful work situations, after having gone through a claim procedure, without jeopardy to continued employment. Nonetheless, workers who leave the workplace before it has been proven unsafe risk being fired; in such cases, the worker has the right to judicial appeal, but the process can be very lengthy.

*f. Trafficking in Persons.*—Although there are no laws specifically addressing trafficking in persons, laws against child abuse provide penalties for trafficking children for purposes of prostitution, and other laws prohibit alien smuggling, indentured servitude, and similar abuses. During the year, Paraguayan authorities uncovered a trafficking ring that sent women and young girls to Buenos Aires, under the guise of working as domestic servants, and then forced them into prostitution. In one prominent case, two girls escaped from an Argentine brothel in April and returned to their homes. The Paraguayan authorities charged a number of Paraguayans with involvement in the case; however, at year's end, none had been convicted. An Argentine television station also conducted an investigation of prostitutes working in greater Buenos Aires and reported a number of undocumented Paraguayan women and girls working in slave-like conditions, offering their services as prostitutes in exchange for their clothing, room, and board.

In 1999 police in Spain apprehended two Argentine citizens whom they charged with trafficking in women for purposes of prostitution.

There were unconfirmed press reports that Bolivian children sometimes were sold to sweatshops in Argentina.

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## BAHAMAS

The Commonwealth of the Bahamas is a constitutional, parliamentary democracy and a member of the Commonwealth of Nations. Queen Elizabeth II, the nominal head of state, is represented by an appointed Governor General. Prime Minister Hubert A. Ingraham's Free National Movement (FNM) has controlled the Government and Parliament since August 1992. The judiciary is independent.

The national police force maintains internal security, and the small Bahamas Defense Force (RBDF) is responsible for external security and some minor domestic security functions such as guarding foreign embassies and ambassadors; both answer to civilian authority. There continue to be reports that the police occasionally committed human rights abuses.

The economy depends primarily on tourism, which accounts for nearly two-thirds of the gross domestic product. Financial services, particularly offshore banking and trust management, are also major sources of revenue. While some citizens enjoy rel-

atively high income levels, there is considerable underemployment and poverty. The unemployment rate remained at 7 percent during the year.

The Government generally respects the human rights of its citizens; however, problems remain in several areas. There were reports that police occasionally beat and abused detainees, and prison conditions remain harsh. The police occasionally use arbitrary arrest and detention. Lengthy pretrial detention and delays in trials are problems. Violence and discrimination against women and violence against children also are problems. Discrimination against the disabled and persons of Haitian descent persists.

#### RESPECT FOR HUMAN RIGHTS

##### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Political and Other Extrajudicial Killing.*—There were no reports of political or other extrajudicial killings. Three prisoners died while in custody at the prison (see Section 1.c.).

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits torture and other cruel and degrading treatment or punishment; however, the police occasionally beat and otherwise abused suspects. Many of the charges of abuse involved beatings to extract confessions. Human rights monitors and members of the public continued to express concern over such instances of police abuse against criminal suspects. Police officials continued to deny that there have been violations of defendants' rights. According to officials, these rights are protected by the trial judge, who determines the admissibility of the defendant's statement as evidence at trial.

The Police Complaints and Discipline Unit, which reports directly to senior police officials, is responsible for investigating allegations of police brutality. This unit determines if enough evidence of abuse or misconduct exists in a particular case to warrant discipline within the police system or, in some instances, criminal prosecution by the Attorney General. Local human rights observers doubt the police force's ability to investigate itself impartially in cases of alleged abuse and misconduct and believe that many incidents of improper police behavior go unreported. Police officials insist that their investigations are fair and thorough. There were 197 complaints against the police during the year. In 14 cases, the complainant dropped the charges. A total of 26 complaints were dropped because the police were found to be not at fault. The authorities sent 31 cases to the Police Tribunal, and 126 cases were under investigation at year's end. Police officials believe that a continuing turnover in personnel is a contributing factor in disciplinary cases. There are approximately 2,200 officers to police a total population (excluding tourists) of 293,000.

Corporal punishment is permitted by law with some restrictions. For example, caning is permitted at police stations but only if performed by a sergeant or higher ranking official. Cat-o-nine-tails are allowed at prisons but used rarely.

Conditions at Fox Hill, the only prison, continued to improve but remain harsh and overcrowded. The men's maximum-security block, originally built in 1953 to house 400 to 600 inmates, holds nearly 800 of the prison's total of over 1,400 inmates. The remaining prisoners are housed in medium- and minimum-security units which are currently at, or above, maximum capacity. The prison's female population is around 40 inmates, considerably less than the female unit's full capacity of 200. Male prisoners are crowded into poorly ventilated cells that generally lack regular running water. There are no separate facilities for inmates being held on "remand" (detention pending trial or further court action), although some eventually are segregated in a medium security wing after processing through maximum security. All inmates are screened for infectious diseases, and prison officials estimate that about 7 percent of the incoming prison population is infected with the HIV virus. Most prisoners lack beds. Many of them sleep on concrete floors and are locked in their cells 23 hours per day. Facilities for women are less severe and do have running water. Organizations providing aid, counseling services, and religious instruction have regular access to inmates. In August and September, three prisoners died while in custody at the prison. Prison officials were investigating the cases at year's end.

The Government has provided funds for improvements in prison facilities and prisoner rehabilitation programs. Prison officials have instituted some technical and vocational programs, and correctional officers are undergoing instruction to become certified trainers. Modern training facilities are equipped with new computers, and the prison also offers some educational and literacy programs for prisoners. In December an 80-cell minimum security cellblock opened, and the prison is constructing a new 80-cell maximum-security building, scheduled to open in 2001. This building,

which is to have larger cells and more extensive plumbing, should relieve some of the overcrowding in the existing block. Prison officials plan to renovate the current maximum-security unit once the new building is in service.

Domestic and international human rights groups were able to visit the prison during the year.

*d. Arbitrary Arrest, Detention, or Exile.*—The Constitution prohibits arbitrary arrest and detention; however, police occasionally arbitrarily arrest and detain persons. In general the authorities conduct arrests openly and, when required, obtain judicially issued warrants. The Government respects the right to a judicial determination of the legality of arrests.

Serious cases, including those of suspected narcotics or firearms offenses, do not require warrants where probable cause exists. Arrested persons appear before a magistrate within 48 hours (or by the next business day for cases arising on weekends and holidays) to hear the charges against them. They may hire an attorney of their choice, but the Government does not provide legal representation except to destitute suspects charged with capital crimes. Some local legal professionals and human rights observers believe that this lack of representation risks hasty convictions on the basis of unchallenged evidence, particularly in the case of poor or illiterate defendants. However, there is no statistical evidence to indicate that this is more than an occasional problem.

The Bail Act prohibits bail for repeat offenders and those accused of certain violent crimes. Judges tend not to grant bail to foreign suspects, particularly on more serious offenses, since the authorities consider foreign offenders more likely to flee if released on bail. Judges sometimes authorize cash bail for foreigners arrested on minor charges, but in practice, foreign suspects generally prefer to plead guilty and pay a fine rather than pursue their right to defend themselves, given possible delays in court cases and harsh conditions in the prison. Attorneys and other prisoner advocates continue to complain of excessive pretrial detention.

The authorities detain illegal immigrants, primarily Haitians and Cubans, at the detention center located off Carmichael Road until arrangements can be made for them to leave the country, or they obtain legal status. The detention center, which had been closed for repairs since suffering extensive damage from Hurricane Floyd in September 1999, reopened in December. Detainees had been housed in the women's prison at Fox Hill where conditions are austere. Female and child detainees were housed together with the general population and were afforded little privacy. Incidents of antagonism between detainees and guards were frequent. Most of these incidents involved the Cuban detainees, a few of whom had been in custody for over a year. There were numerous escapes from Fox Hill prison, particularly by Cuban detainees. In the newly reopened detention center, which can hold up to 600 detainees, women and men are housed separately. Haitians usually are repatriated within 2 weeks. Many detainees are provided with food and other items by relatives and friends on a regular basis, and those who can arrange and finance their repatriation generally are deported much more quickly. Illegal immigrants convicted of crimes other than immigration violations are held at Fox Hill prison where they may remain for weeks or months after serving their sentences, pending deportation.

Exile is illegal and is not practiced.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and it is independent in practice.

Magistrate's courts are the lowest level courts and only handle crimes with a maximum sentence of 5 years. Trial by jury is available only in the Supreme Court, which is the trial court that handles most major cases. Its decisions may be appealed to the Court of Appeal; the Privy Council in London is the final court of appeal. The Governor General appoints judges on the advice, in most cases, of the independent Judicial and Legal Services Commission.

The justice system derives from English common law. Trials are fair and public. Defendants enjoy the presumption of innocence and the right to appeal. Defendants can confront and question witnesses against them and present evidence on their own behalf. However, the judicial system is plagued by a large backlog of cases, and delays reportedly can last as long as 2 years. To reduce the backlog, the Government continued the process of streamlining appeals, computerizing court records, and hiring new judges, magistrates, and court reporters. The Supreme Court established a task force to recommend further reforms in the court system and published a report in October 1999 proposing modifications in the system to facilitate case flow management including the disposition of cases within 16 months of initial filing.

Despite these measures to improve efficiency, complaints persist of excessive pretrial detention, outdated record keeping, delayed justice for victims, and a failure to update new laws in the books. Some judges have been brought in from abroad; while familiar with English common law, they lack experience regarding Bahamian

law and procedures. There were isolated complaints of deviations from normal, fair court proceedings—particularly in civil matters—but there were no indications that this was a widespread problem.

The final appeals court recently ruled that death-row inmates appealing their sentences must be given the chance to be heard by bodies such as the United Nations Human Rights Committee and the Inter-American Commission on Human Rights.

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution prohibits arbitrary entry, search, or seizure, and the Government generally respects these prohibitions in practice. The law usually requires a court order for entry into or search of a private residence, but a police inspector or more senior police official may authorize a search without a court order where probable cause to suspect a weapons violation exists. Such an official also may authorize the search of a person (that extends to the vehicle in which the person is traveling) without a court order, should probable cause exist to suspect drug possession.

## *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Government respects the constitutional provision for the right of free expression, and the political opposition criticizes the Government freely and frequently.

Three daily and several weekly newspapers, all privately owned, express a variety of views on issues of public interest, including varying degrees of criticism of the Government and its policies. Foreign newspapers and magazines are readily available.

There is a government-run radio station and four privately owned radio broadcasters. The country's sole television station, the state-owned Broadcasting Corporation of the Bahamas, presents a variety of views, although opposition politicians claim, with some justification, that their views do not receive as extensive coverage as those of the Government.

The Government does not restrict academic freedom.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly, and the Government respects this right in practice. Groups must obtain permits to hold public demonstrations, and the authorities generally grant such permits.

The Constitution provides for freedom of association, and the Government respects this right in practice. The law permits private associations.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government respects this right in practice.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration and Repatriation.*—The Constitution provides for these rights, and the Government respects them in practice.

The Government cooperates with the office of the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees.

There is no legislation governing the processing of asylum seekers, and applications for political asylum are supposed to be adjudicated on a case-by-case basis at the cabinet level. Trained immigration officials screen asylum applicants, and the UNHCR reviews the interview records and offers advice on certain cases. Local and international human rights observers have criticized the Government for failing to screen potential asylum applicants adequately. These organizations have claimed that some Cubans and Haitians with a legitimate fear of persecution were repatriated without first having the opportunity to make a claim for asylum. Although the repatriation agreement between the Bahamas and Haiti expired at the end of 1995, the Government continued to repatriate illegal Haitian immigrants based on the terms of that agreement. The Government signed a repatriation agreement with Cuba in 1998.

At year's end, a total of 5,801 persons, including 4,897 Haitians, 374 Jamaicans, and 284 Cubans had been repatriated. Two Nigerian nationals requested asylum during the year. The Government granted one request and denied the other. A total of 39 Cubans requested asylum. All were denied.

## *Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The Constitution provides citizens with the right to change their government peacefully, and citizens exercise this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

The Bahamas is a constitutional, parliamentary democracy with two major political parties and general elections at least every 5 years. An elected Prime Minister and Parliament govern. The political process is open to all elements of society, and



citizens 18 years of age and older are eligible to register and vote. Voting is by secret ballot. The two principal political parties are the ruling Free National Movement and the opposition Progressive Liberal Party (PLP). The PLP led the country for 6 years of internal self-government from 1967 to 1973 and held power from independence in 1973 until 1992. The FNM won general elections in 1992 and 1997. It holds 35 of 40 seats in the House of Assembly, and the PLP holds 4. The Coalition for Democratic Reform (a splinter party from the PLP) holds one seat. Both the ruling party and the opposition name members to the upper house, the Senate, in compliance with constitutional guidelines. Although it does pass legislation, the Senate is primarily a deliberative body that serves as a public forum to discuss national problems and policies.

There are no legal impediments to participation by women in government and politics; however, women are underrepresented. The 40-seat House of Assembly has 6 elected female members, including the Speaker of the House, and 6 appointed female Senators, including the government leader in the Senate. The Minister of Foreign Affairs, Janet Bostwick, also directs the Bahamian Bureau of Women's Affairs. Women also head the Ministry of Education and the Ministry of Commerce, Agriculture, and Industry. The Chief Justice of the Supreme Court is a woman.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

Individual human rights monitors and several local human rights groups, as well as representatives of international human rights organizations, operate freely, expressing their opinions and reporting their findings on alleged human rights violations without government restriction. The Government allows them broad access to institutions and individuals.

*Section 5. Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status*

The Government generally respects in practice the constitutional provisions for individual rights and freedoms regardless of race, place of origin, political opinion, creed, or sex. However, the Constitution and the law contain certain provisions that discriminate against women.

*Women.*—Violence against women continues to be a serious, widespread problem. Government crime statistics do not separate domestic violence from other incidents of violence. The Government operates a nationwide toll-free hot line, with two trained volunteers on each of the inhabited islands who are on call to respond in the event of a crisis. Government and private women's organizations conduct public awareness campaigns highlighting the problems of abuse and domestic violence. On November 16, the Department of Social Services in partnership with a private company established, for the first time, two safe houses to assist battered women. The Domestic Court, which deals exclusively with family issues such as spousal abuse, maintenance payments, and legal separation, continued to receive a high volume of cases. The court can and does impose various legal constraints to protect women from abusive spouses or companions. However, advocates for women's rights see a need to improve the effectiveness of enforcement of the court's orders. They cite a general reluctance on the part of law enforcement authorities to intervene in domestic disputes and a lack of police training and sensitivity in dealing with domestic violence. While police training includes some presentations on domestic violence, law enforcement authorities admit that the problem has not been a top priority in training or resource allocation.

The Constitution discriminates against women by not providing them with the same right as men to transmit citizenship to their foreign-born spouses. Additionally the law makes it easier for men with foreign spouses to confer citizenship on their children than for women with foreign spouses. Some inheritance laws also favor men over women. For example, when a person dies without a will, the estate passes to the oldest legitimate son, or in cases where there is no son, the closest legitimate male relative. Prominent women of all political persuasions continue to push for an amendment to the Constitution and related laws to redress this situation.

Women participate fully in society and are well represented in the business and professional sectors.

*Children.*—The Government places a priority on maintaining adequate expenditures for child welfare and education. Public education is compulsory for children through the age of 16.

Awareness of parenting and responsibility for children has increased. However, child abuse and neglect remain serious problems. There were a total of 147 cases of child abuse during the year: 33 cases of physical abuse, 94 cases of sexual abuse, 9 cases of neglect, 4 cases of emotional abuse, and 7 cases of abandonment.

The law requires that all persons who have contact with a child they believe to be abused sexually report their suspicions to the police. However, the same reporting requirement does not apply to cases of physical abuse, which health care professionals believe occurs quite frequently. The police refer reported cases of sexual and physical abuse to the Department of Social Services, which investigates them and can bring criminal charges against perpetrators. The Department may remove children from abusive situations if the court deems it necessary.

*People with Disabilities.*—The Government has constructed additional housing units in Nassau designed specifically for the disabled, but very few buildings and public facilities are accessible to the disabled. Although the 1973 National Building Code mandates certain accommodations for the physically disabled in new public buildings, the authorities rarely enforce this requirement. The code also fails to mandate accommodations in new private buildings, which often lack accessibility as well. Advocates for the disabled complain of widespread job discrimination and general apathy on the part of private employers and political leaders toward their need for training and equal opportunity. They note that there is no overarching legislation to implement and enforce equal opportunity policies in the workplace, educational institutions, or elsewhere.

The Disability Affairs Unit of the Ministry of Social Development and National Insurance works with the Bahamas Council for Disability, an umbrella organization of nongovernmental organizations that offer services for the disabled, to provide a coordinated public and private sector approach to the needs of the disabled. A mix of government and private residential and nonresidential institutions provides a range of education, training, counseling, and job placement services for both physically and mentally disabled adults and children. There is still no disability act; a government-sponsored task force drafted proposed legislation; however, it had not been introduced in Parliament at year's end.

*National/Racial/Ethnic Minorities.*—Unofficial estimates suggest that between 20 and 25 percent of the country's roughly 290,000 inhabitants are Haitians or citizens of Haitian descent, making them the largest and most visible ethnic minority in the islands. While 30,000 to 40,000 Haitian citizens reside in the Bahamas legally, some observers believe that similarly large numbers are in the country illegally.

Although Haitians and Bahamians of Haitian descent generally are well integrated into society, interethnic tensions and inequities persist. Recent crime statistics show Haitians as targets for petty theft crimes. Some members of the Haitian community complain of discrimination in the job market, and resentment of continued Haitian immigration is widespread. However, reports of ethnic violence or blatant discrimination against legally resident Haitians are scarce. Leaders of the Haitian community approve of the Government's humane approach to the repatriation of illegal migrants and point to the high number of ethnic Haitians in the public service.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution provides labor unions with the right of free assembly and association. Private sector and most public sector workers may form or join unions without prior approval. Members of the police force, defense force, fire brigade, and prison guards may not organize or join unions. Workers exercise the right of association extensively, with almost one-quarter of the work force (and one-half of the workers in the important hotel industry) belonging to unions.

Three major umbrella labor organizations—the National Workers Council of Trade Unions and Associations, the Trade Union Congress (TUC), and the National Congress of Trade Unions—along with individual labor unions, all function independently of government or political party control.

The Industrial Relations Act requires that, before a strike begins, a simple majority of a union's membership must vote in favor of a motion to strike. The Department of Labor must supervise the vote. Unions threatened several work stoppages against both public and private employers during the year. In order to resolve trade disputes more quickly, in 1996 Parliament amended the Industrial Relations Act to establish an industrial tribunal. According to the act, labor disputes first are filed with the Ministry of Labor and then, if not resolved, are turned over to the tribunal. The tribunal follows normal court procedures for the admission of evidence, direct examination, and cross-examination. The tribunal's decision is final and can only be appealed in court on a strict question of law. Some employers complain that the industrial tribunal is biased unfairly in favor of employees. All labor unions have the right to maintain affiliations with international trade union organizations.

*b. The Right to Organize and Bargain Collectively.*—Workers freely exercise their right to organize and participate in collective bargaining, which the law protects. Unions and employers negotiate wage rates without government interference.

The Constitution and the Industrial Relations Act prohibit anti-union discrimination by employers. The act requires employers to recognize trade unions, and it requires the reinstatement of workers fired for union activities. Employers may dismiss workers in accordance with applicable contracts, which generally require some severance pay. The Government enforces labor laws and regulations uniformly throughout the country.

Freeport is a specially designated free trade zone. Labor law and practice in this zone do not differ from those in the rest of the country. However, human rights advocates assert that the Port Authority has allowed the Hong Kong-based company Hutchinson-Whampoa, which now owns the harbor, airport, and many major hotels in Freeport, to discourage unions.

*c. Prohibition of Forced or Compulsory Labor.*—The Constitution prohibits forced or compulsory labor by all persons, including children, and such labor does not exist in practice.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The law prohibits the employment of children under the age of 14 for industrial work or work during school hours. Children under the age of 16 may not work at night. There is no legal minimum age for employment in other sectors, and some children work part time in light industry and service jobs. The constitutional prohibition of forced and compulsory labor, including that by children, is respected in practice (see Section 6.c.).

*e. Acceptable Conditions of Work.*—The Fair Labor Standards Act permits the creation of a Wages Council to recommend the setting of a minimum wage, but the Government never has established such a council or a general minimum wage. However, in July the Government established a specific minimum wage of \$4.66 (B\$4.66) per hour for all hourly and temporary workers throughout the public sector. In view of the high cost of living, this wage alone would not provide more than a subsistence living for a worker and family. The act limits the regular workweek to 48 hours, provides for one 24-hour rest period, and requires overtime payment (time and a half) for hours beyond the standard.

The Ministry of Labor, responsible for enforcing labor laws, has a team of inspectors who conduct on-site visits to enforce occupational health and safety standards and investigate employee concerns and complaints, but inspections occur infrequently. The Ministry normally announces inspection visits in advance, and employers generally cooperate with inspectors to implement safety standards.

The national insurance program compensates workers for work-related injuries. The Fair Labor Standards Act requires employers to find suitable alternative employment for employees injured on the job but still able to work. The law does not provide a right for workers to absent themselves from dangerous work situations without jeopardy to continued employment.

*f. Trafficking in Persons.*—There are no laws that specifically address trafficking in persons; however, the Penal code bans prostitution and prohibits the detention of persons against their will and for immoral purposes. There were no reports that persons were trafficked to, from, within or through the country.

## BARBADOS

Barbados is a constitutional democracy with a multiparty, parliamentary form of government and is a member of the Commonwealth of Nations. The Queen is head of state and is represented by an appointed Governor General. Prime Minister Owen Arthur is the head of government and governs with an appointed cabinet. The judiciary is independent.

The Royal Barbados Police Force is charged with maintaining public order. The small volunteer Barbados Defence Force (BDF) is responsible for national security and can be employed to maintain public order in times of crisis, emergency, or other specific need. Police committed some human rights abuses.

The economy is based on tourism, services, light manufacturing, and agriculture, which makes it vulnerable to external economic developments. Per capita gross domestic product (GDP) was about \$9,323 in 1999. The country has registered 7 successive years of sustained economic growth. For the first quarter of the year, GDP grew at 4.6 percent.

The Government generally respects constitutional provisions regarding human rights; however, there were problems in a few areas. There were three extrajudicial

killings by police. Other principal human rights problems continued to be occasional instances of excessive use of force by police and societal violence against women and children. There was an upsurge in spousal abuse during the year.

#### RESPECT FOR HUMAN RIGHTS

##### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Political and Other Extrajudicial Killing.*—There were no reports of political killings. However, police committed three extrajudicial killings. In all cases, the police conducted investigations that found no wrongdoing on the part of the police officers.

On February 6, police shot and killed a suspect, Curtis Maynard, who they said was armed and attempted to flee. However, local residents mounted a demonstration and asserted that Maynard was never known to carry weapons and that, since he was surrounded by police, they should have captured him without gunfire.

On February 21, police shot and killed Kerwin Wilkinson when they responded to a report of a domestic dispute. The police said he resisted and brandished a machete; his girlfriend claimed that he was not holding the machete when police shot him.

On March 3, police shot and killed Tony Greenidge, an emotionally disturbed worker, who had slashed to death an elderly person. Greenidge then attacked a responding police officer, and another police officer shot and killed him.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution specifically prohibits torture and cruel, inhuman, or degrading treatment or punishment; however, credible reports continued that law enforcement officials sometimes used force during detention to extract confessions from detainees.

In February a defendant accused and later convicted of child molestation alleged that the police slapped him, choked him, and denied him access to legal representation, and that due to this treatment, he signed a written confession. Also in February, another defendant alleged that his statement made in a deposition had been altered after the fact by police.

In September the Police Commissioner promised to investigate the alleged beating of a prisoner being held by police on a marijuana charge after his mother stated on a radio program that the police had mistreated her son brutally.

In December 1998, the police took two foreign citizens into custody for questioning in connection with a bank burglary. According to eyewitnesses, both individuals were in good health when the police apprehended them. However, 2 days later, the police took both men to the local hospital following complaints of abdominal pain. One man had to undergo extensive emergency surgery for life-threatening internal bleeding; doctors treated the second man for injuries to the abdomen and groin. Both men asserted that they were restrained physically and beaten by five or six men while in police custody. The police force's Criminal Investigation Department conducted an investigation and presented a report to the Director of Public Prosecutions in February 1999. The authorities filed charges against five police officers and started trial proceedings; however, at year's end, the case was unresolved and remained before the courts.

The majority of complaints against the police fall into the categories of unprofessional conduct and beating or assault. While the police force has a complaints and discipline department headed by a superintendent to deal with matters of inappropriate police conduct, there is no independent body to review complaints against the police. However, in December 1998, the Attorney General instituted a working group to make recommendations regarding the establishment of an independent complaints authority. In February the group presented its report to the Cabinet, and its recommendations were expected to be submitted to Parliament for further consideration.

Police procedures provide that the police may question suspects, and other persons they hold, only at a police station, except when expressly permitted by a senior divisional officer. An officer must visit detainees at least once every 3 hours to inquire about the detainees' condition. After 24 hours, the detaining authority must submit a written report to the Deputy Commissioner. The authorities must approve and record all movements of detainees between stations. The authorities generally

to address illegal weapons and crimes involving firearms. They also announced creation of a joint unit with the BDF to target high-profile crimes.

The only prison is antiquated and overcrowded, with over 625 inmates in a structure built for 350 inmates. The Caribbean Human Rights Network has called for reform of the penal system and advocates the development of alternatives to imprisonment such as community service to alleviate the problem of severe overcrowding. During the year, government officials took steps to introduce alternative, noncustodial sentencing.

The Government allows private groups to visit prisons to ascertain conditions.

*d. Arbitrary Arrest, Detention, or Exile.*—The Constitution prohibits arbitrary arrest and imprisonment and requires detainees to be brought before a court of law within a reasonable time, and the Government generally respects these provisions in practice. Criminal defendants have the right to counsel, and attorneys have ready access to their clients.

The authorities do not use forced exile as a punishment or means of political control.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and it is free of intervention by other branches of government.

The judiciary includes the Supreme Court, which consists of the high court and court of appeal. The Governor General, on recommendation of the Prime Minister and after consultation with the leader of the opposition, appoints the Chief Justice and other judges. Judges serve until the age of 65.

The Constitution provides that persons charged with criminal offenses be given a fair public hearing within a reasonable time by an independent and impartial court, and the Government respects this right in practice. The judicial system provides for the right of due process at each level. The law presumes defendants innocent until proven guilty.

In February Parliament approved a package of new legislation intended to strengthen the powers of law enforcement officials. One of the new laws allows the Director of Public Prosecutions to appeal sentences in criminal cases that he considers too lenient.

The Government provides free legal aid to the indigent with the exception of a limit of about \$2,150 (1,300 pounds sterling) on expenses incurred for appeals by death row prisoners to the Privy Council in London. Two inmates have challenged this limit and are suing the Government on the grounds that it effectively deprives them of their right to due process.

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution prohibits arbitrary entry, search, or seizure, and the law requires warrants to be issued before privately owned property may be entered and searched.

The Government does not interfere routinely in the private lives of its citizens; however, the police sometimes resorted to searches of homes without warrants. The Government does not censor mail. However, the Government restricts the receipt of foreign publications deemed to be pornographic. Other foreign publications of a nonprurient nature are allowed without restriction.

## *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the authorities respect these rights in practice. There are two independent daily newspapers, both of which present opposition political views. The Government regularly comes under criticism in the newspapers and on daily call-in radio programs. There are six radio stations, two of which are owned by the Government. The Caribbean Broadcasting Corporation (CBC) television service (the only television source, excluding direct satellite reception) is government owned. Although CBC is a state enterprise, it regularly reported views opposing government policies. Critics allege that the Government sometimes uses its influence to discourage media reporting on sensitive issues, but the press remained vigorously critical of the Government on a broad span of issues. The Government prohibits the production of pornographic materials.

The Government does not restrict academic freedom.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for the right of peaceful assembly, and the Government respects this right in practice. Political parties, trade unions, and private organizations function and hold meetings and rallies generally without hindrance. The Public Order Act of 1970 requires police approval for public assemblies, and previously it had been enforced rarely. However, in February the authorities dispersed a protest march about the Maynard killing by police (see Section 1.c.) because no permit had been obtained. Permission later was granted for a demonstration held a few days afterwards.

The Constitution provides for the right of association, and the Government respects this right in practice.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government respects this right in practice.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—Citizens and legal residents move freely within the country and leave and enter it without restriction.

The Government has not formulated a policy regarding refugees, asylees, or first asylum. The issue of the provision of first asylum did not arise. There were no reports of forced expulsion of anyone having a valid claim to refugee status. However, government practice remains undefined.

*Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

Citizens have this right in law and exercise it in practice. Political parties compete in free and fair elections by secret ballot at least every 5 years. In the 1999 elections, the Barbados Labour Party won a decisive victory, gaining a 26-to-2 majority over the Democratic Labour Party. There are no impediments to participation in the political process, and all citizens over age 18 may vote. The Prime Minister exercises executive power along with the Cabinet of Ministers that he appoints, balanced by the bicameral Parliament and the judicial system.

Although underrepresented overall, women participate in all levels of government and politics. There are three female members of Parliament; the Deputy Prime Minister, who also serves concurrently as Foreign Minister, is a woman, as is the Minister of Education.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

Local groups involved with human rights operate freely and without government hindrance. The Caribbean Human Rights Network, a Caribbean-wide human rights organization which has its headquarters and a small staff in Barbados, investigates and reports on allegations of human rights violations throughout the region.

The Ombudsman's office, established in 1987, hears complaints against government offices for alleged injuries or injustices resulting from administrative conduct. The office is prohibited from involvement in issues involving foreign affairs, immigration questions, and certain other matters. Because it focuses only on administrative conduct, it does not deal with complaints of police abuse; a separate department within the police force deals with matters of inappropriate police conduct.

*Section 5. Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status*

The Constitution provides for equal treatment under the law, regardless of race, religion, or sex. The Government respects these rights in practice.

*Women.*—Violence and abuse against women continued to be significant social problems. Women's rights groups reported that victims of sexual assaults, domestic violence, incest, and rape are often reluctant to report such incidents. There are public and private counseling services for victims of domestic violence, rape, and child abuse. There was an upsurge in spousal abuse during the year.

The 1992 Domestic Violence Law specifies the appropriate police response to domestic violence, which is intended to protect all members of the family, including men and children. It applies equally to marriages and to common law relationships. Criminal penalties for violent crimes are the same, regardless of the sex of the offender or the victim. The courts heard a number of cases of domestic violence against women involving assault or wounding. Victims may request restraining orders, which the courts often issue. The courts can sentence an offender to jail for breaching such an order. Human rights monitors criticized an inconsistency in sentencing for rape, incest, and statutory rape. They noted that the lack of sentencing guidelines resulted in longer sentences for persons convicted of petty theft than for incest; and lesser sentences for incest than for rape or sexual assault of nonfamily members.

Women actively participate in all aspects of national life and are well-represented at all levels of both the public and private sectors. They form a large percentage of heads of household and are not discriminated against in public housing or other social welfare programs.

The National Organization of Women (NOW) is an affiliate of a regional women's organization called the Caribbean Women's Association. The Business and Professional Women's club, an affiliate of the NOW, runs a crisis center staffed by 30 trained counselors and provides legal and medical referral services. The center also

has a hot line for clients who wish to maintain their anonymity. The Government established a battered women's shelter, which opened in September 1999.

In August Minister of Labor Greenidge told a labor meeting that he supported strong legislation aimed at preventing sexual harassment in the workplace.

Children born overseas and out of wedlock to Barbadian men are considered citizens. However, Barbadian women married to non-Barbadian men were unable to confer citizenship on the child, until an act of Parliament took effect on August 16. Now a child born to a male or a female citizen has immediate citizenship.

*Children.*—The Government provides for compulsory education to the age of 16. The national health insurance program provides children with free medical and dental services for most medical conditions. The Government is committed to children's human rights and welfare, although violence and abuse against children remain serious problems. The Child Care Board is responsible for monitoring and responding to the critical welfare needs, interests, and rights of children. Statistics from the Child Care Board show that approximately 1,000 children suffered abuse in 1998-99.

*People with Disabilities.*—The law does not prohibit discrimination against the physically disabled in employment, education, or the provision of other state services. However, in 1997 the Ministry of Labor established the Disabilities Unit to address the concerns of the disabled, and in early 1998 it created an advisory committee on disabilities. The Labor Department, a unit within the Ministry that finds jobs for the disabled, long has advocated the introduction of legislation prohibiting discrimination. In May the Government, labor leaders, and the private sector jointly announced an agreement to promote a code of practice on the employment of persons with disabilities, as part of these groups' continuing social partnership. They also agreed to establish targets and time frames for the employment of disabled persons in the private and public sectors.

While there is no legislation mandating provision of accessibility to public thoroughfares or public or private buildings, the Town and Country Planning Department sets provisions for all public buildings to include accessibility to persons with disabilities. As a result, the majority of new buildings have ramps, reserved parking, and special sanitary facilities for the disabled.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—Workers freely exercise their right to form and belong to trade unions and to strike. Approximately 30 percent of the labor force belongs to trade unions. Overall union membership appears to have declined slightly in recent years as some workers moved to better-paying positions in higher-technology sectors. There are two major unions and several smaller ones, representing various sectors. The public service union, the National Union of Public Workers, is independent of any political party or the Government. Some officers of the largest union, the Barbados Workers' Union, are associated personally with the Democratic Labour Party. Most unions belong to the Congress of Trade Unions and Staff Associations, which was founded in 1995.

The law accords full protection to trade unionists' personal and property rights. All private and public sector employees are permitted to strike, but essential workers may strike only under certain circumstances and after following prescribed procedures.

In July the nonunion Barbados Police Association supported the police in a labor action over unfulfilled promises of increased wages and increased allowances. This action followed an October 1999 "sick-out" over the same issues. The police took action because they did not receive promised wage increases and increased allowances. For several years, the Government has been reviewing wage and pay scales of all public service employees, including the police. Police said that they are entitled to special consideration since they are not allowed to be represented by a trade union because of their domestic security function. The police labor action took place in July during the height of the local Carnival period. As the action proceeded, members of the BDF were called in to supplement those police who reported for work. As of year's end, the issues had not been resolved and were still under consideration.

Trade unions are free to form federations and are affiliated with a variety of regional and international labor organizations. The Caribbean Congress of Labor has its headquarters in Barbados.

*b. The Right to Organize and Bargain Collectively.*—The law provides for the right to organize and bargain collectively, and the authorities respect it in practice. Normally, wages and working conditions are negotiated through the collective bargaining process, but a 1993 tripartite prices and incomes policy accord established a 2-year wage freeze. A revised (second) protocol contained provisions for negotiated

increases in basic wages and increases based on productivity, which covered 1995-97. In May 1998, the tripartite partners signed a third protocol covering 1998-2000, broadened to address the needs of disabled workers and to express support for international efforts against child labor.

Employers have no legal obligation to recognize unions under the Trade Union Act of 1964, but most do so when a significant percentage of their employees express a desire to be represented by a registered union. Several foreign-owned international data-processing companies challenged union claims in 1997-98 to represent their workforces, highlighting the country's need for legislation outlining the union recognition process. While there is no specific law that prohibits discrimination against union activity, the courts provide a method of redress for employees who allege wrongful dismissal. The courts commonly award monetary compensation but rarely order reemployment. New legislation that would address the union recognition process had been pending for about 2 years at year's end.

There are no manufacturing or special areas where collective bargaining rights are legally or administratively impaired. There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The Constitution prohibits forced, compulsory, or bonded labor, including that by children, and there were no reports of its use.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The legal minimum working age of 16 is observed broadly. Compulsory primary and secondary education policies, which require school attendance until age 16, reinforce minimum age requirements. The Labor Department has a small cadre of labor inspectors who conduct spot investigations of enterprises and check records to verify compliance with the law. These inspectors may take legal action against an employer who is found to have underage workers. The law prohibits forced or bonded labor by children, and the authorities effectively enforce it (see Section 6.c.).

*e. Acceptable Conditions of Work.*—The law sets and the authorities establish minimum wages for specified categories of workers. Only two categories of workers have a formally regulated minimum wage—household domestics and shop assistants (entry level commercial workers). Household domestics are entitled to a minimum wage of about \$0.75 (bds\$1.50) per hour, although in actual labor market conditions, the prevailing wage is triple that amount. There are two age-related minimum wage categories for shop assistants. The adult minimum wage for shop assistants was raised by 13 percent in June 1997, to \$2.13 (bds\$4.25) per hour; the juvenile minimum wage for shop assistants became \$1.62 (bds\$3.25) per hour. The minimum wage for shop assistants is marginally sufficient to enable a worker and family to meet minimum living standards; most employees earn more.

The standard legal workweek is 40 hours in 5 days, and the law requires overtime payment for hours worked in excess. The Government accepts International Labor Organization conventions, standards, and other sectoral conventions regarding maximum hours of work. However, there is no general legislation that covers all occupations. Employers must provide workers a minimum of 3 weeks' annual leave. Unemployment benefits and national insurance (social security) cover all workers. A comprehensive, government-sponsored health program offers subsidized treatment and medication.

The Factories Act of 1983 sets out the officially recognized occupational safety and health standards. The Labor Department enforces health and safety standards and follows up to ensure that problems cited are corrected by management. The Factories Act also requires that in certain sectors firms employing more than 50 workers create a safety committee. This committee can challenge the decisions of management concerning the occupational safety and health environment. Trade union monitors identify safety problems for government factory inspectors to ensure the enforcement of safety and health regulations and effective correction by management. Government-operated corporations in particular were accused of doing a "poor job" in health and safety. The Government has promised to undertake inspections of government-operated corporations and manufacturing plants as a priority. Workers have a limited right to remove themselves from dangerous or hazardous job situations without jeopardizing their continued employment.

*f. Trafficking in Persons.*—There are no laws specifically addressing trafficking in persons. There were no reports that persons were trafficked to, from, within, or through the country.



## BELIZE

Belize is a parliamentary democracy with a constitution enacted in 1981 upon independence from the United Kingdom. The Prime Minister, a cabinet of ministers, and a legislative assembly govern the country. The Governor General represents Queen Elizabeth II in the largely ceremonial role of head of state. Prime Minister Said Musa's People's United Party (PUP) holds 26 of the 29 seats in the House of Representatives. The Government generally respects the constitutional provisions for an independent judiciary; however, at times the judiciary is subject to political influence.

The Police Department has primary responsibility for law enforcement and maintenance of order. The Belize Defense Force (BDF) is responsible for external security but, when deemed appropriate by civilian authorities, may be tasked to assist the police department. Both the police and the BDF report to the Minister of National Security and are responsible to and controlled by civilian authorities. There were reports of abuse by the police.

The economy is primarily agricultural, although tourism has become the principal source of foreign exchange earnings. The agricultural sector is heavily dependent upon preferential access to export markets for sugar and for bananas. The Government favors free enterprise and generally encourages investment, although domestic investors are given preferential treatment over foreign investors in a number of key economic sectors. Preliminary estimates of annual gross domestic product growth placed it at 6.2 percent in real terms. Annual per capita income was \$2,771.

The Government generally respected many of its citizens' human rights; however, there were problems in several areas. Principal human rights abuses include several extrajudicial killings, occasional brutality and use of excessive force by the police when making arrests, poor prison conditions, allegations of arbitrary arrest and detention, lengthy pretrial detention, political influence on the judiciary, and judicial limits on freedom of the press. Violence and discrimination against women, abuse of children, and employer mistreatment of undocumented foreign workers also were problems. There were instances of trafficking in persons.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Political and Other Extrajudicial Killing.*—There were no political killings by the security forces; however, there were three instances of extrajudicial killing.

On January 24, six BDF soldiers shot and killed Samuel Ramirez, a Guatemalan farmer, near the border between the two countries. A public Commission of Inquiry ruled that Ramirez had attacked the soldiers and that the killing was justifiable.

On February 24, an off-duty police officer with a machete chased Kelvin "Brambles" Barrow into the sea, where Barrow drowned. The Ombudsman presented a report to the National Assembly, and the case was before the Department of the Public Prosecutor (DPP) at year's end.

On March 17, Hattieville prison inmates rioted. During the riot, a guard shot and killed one inmate. The Ombudsman's investigation revealed that the officer was delinquent, and the matter was before the DPP at year's end.

In September 1999, 38-year-old Daniel Tillett died while in police custody, after being arrested for fighting in public. On February 14, the Director of Public Prosecutions issued instructions to the Police Commission to proceed to indictment of the officer-in-charge, Jesus Cantun. At year's end, he was in jail awaiting trial.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits torture or other inhuman punishment; however, the police occasionally used excessive force when making arrests. The Government's Ombudsman stated that the second and third most common complaints that his office receives involve police misconduct and brutality and misconduct on the part of Department of Corrections personnel. The Ombudsman estimated that at year's end, his office would have approximately 10 pending cases of this type.

The Police Department's internal affairs and discipline section, the Director of Public Prosecutions, the Ombudsman's office, and on occasion, special independent commissions appointed by the Prime Minister, investigate allegations of abuse by officials. When the Internal Affairs Division was established in 1995, it received 50 complaints against police officers; in 1999, the number had increased to 299. The increase may reflect an increase in abuse by officials as well as an increase in the public's willingness to report such abuses.

On February 14, a police officer shot and wounded a BDF soldier in Orange Walk Town. Witnesses claimed that the two men were involved in a verbal altercation.

When the soldier pulled his machete, the police officer drew his firearm and shot the soldier in the abdomen. The exiting bullet struck an innocent bystander. Both victims recovered from their wounds. The officer was arrested and suspended from the force; at year's end, the Ombudsman was investigating the incident.

On April 4, police shot escaped prisoner Darrel "Bagga" Jones. All investigations determined this to be a justified use of force.

On May 20, while on duty at the national agriculture and trade show, a police officer shot and wounded a man. Immediately prior to the shooting, the sergeant in charge ordered the officer not to shoot. The victim had been brandishing a piece of cardboard that had a dead snake glued to it. The authorities suspended the officer from duty, and the Ombudsman was conducting an investigation at year's end.

On August 27, two national team soccer players claimed that police beat them while they were handcuffed in Orange Walk Town. Police Commissioner Hughington Williams suspended the chief inspector for the district, James Magdaleno, and assistant inspector Eli Salazar, pending the outcome of the investigation. Williams also took disciplinary action against constables Roger Briceno, Mateo Carrillo, and A. Coc. The matter still was before the police internal affairs division at year's end.

In April 1999, two Guatemalan men, Hector Balcarcel and Ricardo Guzman, were detained at the Guatemala-Belize border. They were taken into police custody, allegedly detained for 5 days, and Balcarcel allegedly was tortured. Balcarcel's report to the Human Rights Commission and the Guatemalan embassy claimed that he was stripped, handcuffed, burned with a lighter and habanero peppers on his genitals, beaten with a stick, and forced to drink his own urine. After an internal investigation, the police determined that these allegations were false. An internal review of this investigation still was underway at year's end.

In June 1999, the authorities arrested a police constable and charged him with extortion and corruptly soliciting a reward. They relieved him of duty and put him on trial in the Supreme Court; the court found him guilty and sentenced him to pay a fine.

On March 16, two inmates at the Hattieville prison, Nehru Smith and Bert Eljios, were sentenced to receive corporal punishment in accordance with prison rules for assaulting and nearly killing another inmate. Smith and Eljios received 12 and 6 tamarind lashes respectively. The Minister of Prisons gave official support and approval for the floggings. On March 31, the newly reappointed prison governor stated that the floggings were necessary, but that while he was in charge, no other prisoners would be punished in that fashion.

On March 17, between 300 and 400 prisoners at Hattieville reacted to the floggings by rioting. During the riot, one prisoner was killed, and three were hospitalized with gunshot wounds (see Section 1.a.). The matter still was before the DPP at year's end.

On August 28, an inmate at the Hattieville correctional facility was given 12 lashes for stabbing a fellow inmate in the neck during an altercation over \$2 (bz\$4). A visiting judge sentenced the prisoner to the lashings following a hearing. The punishment was administered in accordance with prison rules, despite the new prison governor's earlier vow that floggings would not occur.

Prison conditions are poor. Conditions at the Hattieville Department of Corrections—the country's only prison—have deteriorated continually since it opened in 1993. Although designed to house 500 inmates, it houses 745 male inmates and 20 female inmates, resulting in approximately 6 inmates in each 6-by-9 foot cell. The majority of prison accommodations do not have showers or toilets. Instead, inmates are provided with 5-gallon buckets. The prison psychiatrist provides mental health services for inmates. There is no separate facility for inmates with mental illnesses. First-time offenders are housed in the same building as those who commit capital crimes. Noncitizens constitute approximately 15 to 20 percent of the prison population. There are rare reports of human rights abuses in the form of physical brutality by prison wardens. Incidents of gang- and drug-related violence in the prison are on the rise. Frequent prison breaks, confiscation of weapons, and reports of beatings have occurred throughout the prison's history. Prison authorities estimated that they confiscated more than 1,500 deadly weapons by year's end. The authorities reported that there were 53 prison escapes during the year; all but 3 escapees were captured by year's end.

The prison includes a separate facility for women.

The Government took steps to curb recidivism and focus on rehabilitation. The Youth Enhancement Agency (YEA) houses over 60 youths between the ages of 13 and 25, who participate in rehabilitation and job training programs. Prison authorities provided training for inmates in basic skilled trades such as carpentry. Increasingly, youthful offenders are transferred from the main prison to the YEA facilities.

A job-training program at a citrus farm employs 44 inmates. There is a timeoff program for good behavior.

The Government permits prison visits by independent human rights monitors.

*d. Arbitrary Arrest, Detention, or Exile.*—The Constitution prohibits arbitrary arrest or detention, and the Government observes these provisions to a degree; however, there were occasional accusations of arbitrary arrest and detention.

The law requires the police to inform a detainee of the cause of detention within 48 hours of arrest and to bring the person before a court to be charged formally within 72 hours. In practice the authorities normally inform detainees immediately of the charges against them. Bail is granted in all but the most serious cases. In cases involving narcotics, the police cannot grant bail, but a magistrate's court may do so after a full hearing. There are persistent allegations that security forces hold detainees for 72 hours and release them, but upon release, arrest them again. In May the newly appointed Supreme Court Chief Justice published and promulgated "The Judges' Rules," which outline a code of conduct to which police officers must adhere when dealing with arrested persons. Many detainees cannot afford bail, and backlogs in the docket often cause considerable delays and postponement of hearings, resulting in an overcrowded prison, and at times prolonged incarceration before trial.

The Constitution forbids exile, and it does not occur in practice.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and the Government generally respects this provision in practice; however, at times the judiciary is subject to political influence. The appearance of judicial independence from the executive branch is compromised because some foreign judges and the Director of Public Prosecutions must negotiate renewal of their contracts with the Government and thus may be vulnerable to political interference. In February the Government appointed a new Supreme Court Chief Justice, Abdullai Conteh, a jurist from Sierra Leone.

The judiciary consists of the magistrate's courts, the Supreme Court, the Court of Appeals, and a family court that handles cases of child abuse, domestic violence, and child support. Those convicted by either a magistrate's court or the Supreme Court may appeal to the Court of Appeals. In exceptional cases, including those resulting in a capital sentence, the convicted party may make a final appeal to the Privy Council in the United Kingdom.

Persons accused of civil or criminal offenses have constitutional rights to presumption of innocence, protection against self-incrimination, defense by counsel, a public trial, and appeal. Legal counsel for indigent defendants is provided by the State only for capital crimes. In April 1999, the Government appointed an attorney to the Legal Aid Center to improve and strengthen legal aid services to the public. The judicial system is constrained by a severe lack of trained personnel, and police officers often act as prosecutors in the magistrate's courts.

Trial by jury is mandatory in capital cases.

A Political Reform Commission recommended that the family court be placed at the same level as the magistrate's courts, a recommendation that the Government adopted. However, trials in cases that come before the family court generally are private. The convicted party in family court may appeal to the Supreme Court. Defendants have the right to be present at their trial unless the opposing party fears for his or her safety. In such a case, the court grants interim provisions under which both parties are addressed individually during a 5day period.

There are lengthy trial backlogs in the judicial system. One factor commonly cited is the low pay offered to judges, resulting in high turnover rates. In addition an inordinate number of significant narcotics-related cases are taking years to resolve. In these cases, defendants often are released on minimal bail payments. In April 1999, two retired judges were named to the Supreme Court in a temporary capacity to help reduce backlogs. At year's end, only three justices served on the Supreme Court, instead of the full complement of five.

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such practices, government authorities generally respect these prohibitions, and violators are subject to legal action. However, there were several cases in which the previous government exercised its power under the right of eminent domain in an arbitrary manner. Such cases take years to resolve in the courts.

## *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and the Press.*—The Constitution provides for freedom of speech and of the press but also permits the authorities to make "reasonable provisions" in the interests of defense, public safety, public order, public morality, or pub-

lic health. These provisions include forbidding any citizen to question the validity of the financial disclosure statements submitted by public officials. Anyone who questions these statements orally or in writing outside a rigidly prescribed procedure is subject to a fine of up to \$2,500 (bz\$5,000), or imprisonment of up to 3 years, or both.

A wide range of viewpoints is presented publicly, usually without government interference, in seven privately owned weekly newspapers, three of which are affiliated directly with major political parties. There is no daily press. All newspapers are subject to the constraints of libel laws.

There are a range of privately owned commercial radio stations. In addition to these local stations, there are two British military stations that broadcast news directly from London. Popular radio call-in programs are lively and feature open criticism of and comments on government and political matters.

There are eight privately owned television broadcasting stations, including several cable networks in Belize City and the major towns. The Government's Belize Information Service issues press releases and maintains an Internet web site. Two independent television stations produce local news and feature programs. The Belize Broadcasting Authority regulates broadcasting and asserts its right to preview certain broadcasts, such as those with political content, and to delete any defamatory or personally libelous material from political broadcasts.

The law provides for academic freedom, and the Government respects it in practice.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly, and the Government respects it in practice. Political parties and other groups with political objectives freely hold rallies and mass meetings. The organizers of public meetings must obtain a permit 36 hours in advance of the meetings; such permits are not denied for political reasons and are granted routinely in practice.

The Constitution permits citizens to form and join associations of their choosing, both political and nonpolitical, and the Government respects these provisions in practice.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government respects this right in practice.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights, and the Government respects them in practice.

The law provides for granting of asylum or refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Government cooperates with the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations. The Government's Refugee Department officially closed on December 31, 1999. Since then, the UNHCR has relied upon a local nongovernmental organization (NGO) to monitor the status of asylees and to represent its interests. There were 12 refugees receiving UNHCR assistance and awaiting the opportunity to apply for asylum in the country. Most are African, originating from Nigeria or Sierra Leone.

The previous administration appointed members to an eligibility committee to review applications for asylum. The committee, which included a UNHCR representative, met on a weekly basis. In 1998 the Government turned down 30 requests for asylum. The Government has not established an eligibility committee since the change of administration in 1998. The Government has not accepted applications and no mechanism exists to adjudicate asylum requests. There is no legislation that formalizes the asylum process. The Government last honored the principle of first asylum in the case of four persons in 1995.

In the wake of the civil conflicts in Central America in the 1980's, over 40,000 predominantly Hispanic migrants came to Belize, many of them entering illegally and living without documentation. In May 1999, the Government instituted a 6-week amnesty initiative whereby undocumented migrants were eligible to obtain legal residency, provided: They had lived in Belize continuously for 4 years, married a Belizean citizen or had a stable common-law association, had Belizean children, or, if female, were at least 4 months pregnant. The amnesty is expected to benefit about 5,000 UNHCR-registered asylees, as well as 13,000 others. Officials continued processing amnesty applications during the year.

### *Section 3. Respect for Political Rights: The Right of Citizens to Change their Government*

Belize is a democracy governed by a national assembly with executive direction from a cabinet of ministers headed by Prime Minister Said Musa. The law requires national elections every 5 years. The Government changed hands in August 1998

when the PUP won 26 of 29 seats in the House of Representatives in free and fair elections.

All elections are held by secret ballot, and suffrage is universal for citizens 18 years of age and older. National political parties include the People's United Party, the United Democratic Party (UDP), and the National Alliance for Belizean Rights (NABR). The country's ethnic diversity is reflected in each party's membership.

No laws impede participation of women in politics; however, they are somewhat underrepresented in electoral politics due to both tradition and socioeconomic factors. Voters elected 2 women to the 29-seat House of Representatives, and the Speaker of the House and the President of the Senate, both appointed, are women. Women also hold a number of other appointive offices, including four of nine senate seats, one cabinet position, and three are permanent secretaries in ministries. The Chief Elections Officer is also a woman.

There are no laws impeding participation by indigenous people or minority groups in politics. There are Mestizo, Creole, Maya, and Garifuna representatives in Parliament.

#### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

The Human Rights Commission of Belize (HRCB), an NGO affiliated with regional human rights organizations and partly funded by the UNHCR, operates without government restriction on a wide range of issues, including migrant and agricultural workers' rights and cases of alleged police abuse. The HRCB publishes human rights complaints and urges police and other governmental bodies to act upon them. The HRCB gained prominence through media reports about its workshops and seminars that educate citizens about human rights.

International human rights groups operate freely as well. Government officials generally are cooperative and responsive to their activities.

The Government's Ombudsman, a position created in 1999, stated that his office receives an average of two to three complaints of human rights violations per week. The second and third most common complaints his office receives involve police misconduct and brutality and misconduct on the part of Department of Corrections' personnel. The Ombudsman estimated that at year's end, his office would have approximately 10 pending cases of this type.

In his first annual report, the Ombudsman highlighted three primary concerns: unprofessional police behavior; lack of response by public officials to the Ombudsman's formal inquiries; and public officials' lack of knowledge regarding provisions of the Ombudsman Act. The report stated that the office had received 213 formal complaints (about all types of perceived abuse by government agencies) in its first 7 months of existence; of which the 3-person office had resolved 134 cases.

On May 9, the Office of the Ombudsman and the HRCB signed a memorandum of understanding coordinating efforts to curb human rights abuses.

#### *Section 5. Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status*

The country is multiracial and multiethnic, and the Government actively promotes tolerance and cross-cultural understanding. Discrimination on ethnic or religious grounds is illegal and rare, although ethnic tension, particularly resentment of recently arrived Central American and Asian immigrants, continued to be a problem. The Government continues to reserve certain professions for citizens, granting permits and licenses to noncitizens only in specific cases. These occupations include fishing, souvenir manufacturing, sightseeing tours, accounting, insurance, real estate, and legal services.

*Women.*—Violence against women is a problem. Based on reported cases, the Ministry of Human Development, Women, and Civil Society estimated that there were about 1,000 domestic violence cases during the year. A shelter for battered women offers short-term housing. The Belize Organization for Women and Development, an NGO, advises women on their rights and provides counseling. Laws prohibit rape and sexual harassment, but few offenders are charged and convicted. In October 1999, an expanded criminal code outlawed marital rape. Shortly thereafter, the Police Department created a police family violence unit in order to combat spousal abuse.

Despite constitutional provisions for equality, women face social and economic prejudice. Women find it more difficult than men to obtain business and agricultural financing and other resources. Most employed women are concentrated in female-dominated occupations with traditionally low status and wages. The Women's Bureau in the Ministry of Human Development, Women, and Civil Society is charged with developing programs to improve the status of women. That Ministry estimated

that women would receive 35 percent of all small business loans during the year. A number of officially registered women's groups work closely with various government ministries in promoting social awareness programs. Women have access to education and are active in all spheres of national life, but relatively few hold top managerial positions. However, women head the Belize Business Bureau, Belize Chamber of Commerce and Industry, Belize Citrus Growers Association, several prominent environmental NGO's, and the Belize Rotary Club. The law mandates equal pay for equal work, but female workers often earn less than men in similar jobs. There are no legal impediments to women owning or managing land or other real property.

There were reports that women have been trafficked for purposes of prostitution (see Sections 6.c. and 6.f.).

*Children.*—Education is compulsory for children between the ages of 5 and 15. After children finish their primary education, they may enter a secondary school, the government-run apprenticeship program, or a vocational institution. However, these programs have room for only about one-half of the children finishing primary school; competition for spaces in secondary school is intense. Education is nominally free, but various school, book, and uniform fees place education out of reach for many poor children.

The Family Services Division in the Ministry of Human Development, Women, and Civil Society is devoted primarily to children's issues. The division coordinates programs for children who are victims of domestic violence, advocates remedies in specific cases before the family court, conducts public education campaigns, investigates cases of trafficking in children (see Section 6.f.), and works with NGO's and UNICEF to promote children's welfare. The National Committee for Families and Children includes a representative from the Ministry of Human Development, Women, and Civil Society.

Child abuse is not considered to be widespread or a societal problem. In 1998 Parliament passed the Families and Children Act, and in 1999 the National Organization for the Prevention of Child Abuse (NOPCA) published a handbook for the public that outlined in plain language provisions of the law. The law allows authorities to remove a child legally from an abusive home environment, removes the limit placed on child support that a parent must pay, and allows men to file for support, as well as women. It requires parents to maintain and support a child until he or she reaches the age of 18, compared with the previous law's mandate of support up to the age of 16. The law also accepts DNA testing as legal proof of paternity and maternity. It requires that all adoptions be reported to the Human Development Department of the Ministry of Human Development, Women, and Civil Society, and that prospective parents be screened before they may adopt a child. The NOPCA instituted a nationwide telephone help line to encourage discourse and reduce abuse.

There were some reports that children were trafficked for the purpose of forced prostitution (see Sections 6.c. and 6.f.).

*People with Disabilities.*—The law does not provide specifically for accessibility for disabled persons or prohibit job discrimination against them. The Government's Disability Services Unit, as well as a number of NGO's, such as the Belize Association of and for Persons with Disabilities and the Belize Center for the Visually Impaired, provide assistance to physically disabled persons. Disabled children have access to government special education facilities, although the requirements to enter such programs are strict.

*Indigenous People.*—Among the country's indigenous people, the Mopan and Ke'kchi are grouped under the general term Maya, although their leaders say that they should be identified as the Masenal, meaning "common people." The Maya have sought official recognition of their communal claims to land, but the Government has been reluctant to single out one ethnic group for special consideration. The Government has designated 77,000 acres as 9 separate Mayan reserves; however, Mayan leaders claim that the Maya have an ancestral claim to a total of 500,000 acres. The Maya have formed cultural councils and other groups to advance their interests, sometimes with the collaboration of NGO's concerned with environmental and indigenous issues. Several Mayan organizations have filed suit to force the Government to recognize the Maya's ancestral land rights and to prevent further granting of logging concessions on the disputed land.

On October 12, the Government and the Mayan People of Southern Belize signed a collective agreement to address the grievances set forth in a petition by Mayan community leaders in the summer of 1998.

*Section 6. Worker Rights*

*a. The Right of Association.*—By law and in practice, workers generally are free to establish and join trade unions. Eleven independent unions, whose members constitute approximately 11 percent of the labor force, represent a cross-section of white-collar, blue-collar, and professional workers, including most civil service employees. However, several of these unions are inactive. The Ministry of Industry, Commerce, Public Services, and Labor recognizes unions after they file with the Registrar's Office. The law empowers members to draft the bylaws and the constitutions of their unions, and they are free to elect officers from among the membership at large. Unions that choose not to hold elections may act as representatives for their membership, but the national Trade Union Congress permits only unions that hold free and annual elections of officers to join its ranks. Both law and precedent effectively protect unions against dissolution or suspension by administrative authority.

The law permits unions to strike and does not require them to give notice before going on strike.

Although no unions are affiliated officially with political parties, several are sympathetic to one or the other of the two main parties (the PUP and the UDP).

Unions freely exercise the right to form federations and confederations and affiliate with international organizations.

*b. The Right to Organize and Bargain Collectively.*—The law provides for collective bargaining and unions practice it freely throughout the country. Employers and unions set wages in free negotiations, or, more commonly, employers simply establish them. The Labor Commissioner or his representative acts as a mediator in deadlocked collective bargaining negotiations between labor and management, offering nonbinding counsel to both sides. Historically the Commissioner's guidance has been accepted voluntarily. However, should either union or management choose not to accept the Commissioner's decision, both are entitled to a legal hearing of the case, provided that it is linked to some provision of civil or criminal law.

The Constitution prohibits antiunion discrimination both before and after a union is registered. Unions may organize freely, but the law does not require employers to recognize a union as a bargaining agent. For example, although the registered Banana Workers Union actively advocated worker rights, it was not recognized by the banana industry's growers association due to low membership. Some employers have been known to block union organization by terminating the employment of key union sympathizers, usually on grounds purportedly unrelated to union activities. Effective redress is extremely difficult to obtain in such situations. Technically, a worker can file a complaint with the Labor Department, but in practice it is virtually impossible to prove that a termination was due to union activity.

The Labor Code applies in the country's export processing zones (EPZ's). There are no unions in the EPZ's, reflecting the general weakness of organized labor in the country.

*c. Prohibition of Forced or Compulsory Labor.*—The Constitution and laws forbid forced, compulsory or bonded labor, including that performed by children, and generally it is not known to occur; however, there were reports that women were trafficked and infrequent reports that children also were trafficked for the purpose of forced prostitution (see Section 6.f.).

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The Labor Act prohibits all employment of children under age 12, and prohibits employment of children between the ages of 12 and 14, before the end of school hours on official school days. The minimum age for employment is 17 years for work near hazardous machinery. Inspectors from the Departments of Labor and Education enforce this regulation. During the year, truancy officers, who historically have borne the brunt of the enforcement burden, were more active. The law requires children between the ages of 5 and 15 to attend school, but there are many truants and dropouts. According to the Central Statistics Office, in the 1990's, 46 percent of children did not complete primary school, and 10 percent of those children never enrolled in school at all. On March 21, the Government ratified International Labor Organization Convention No. 182 on the worst forms of child labor.

Laws prohibit forced and bonded labor by children, and in general the Government effectively enforces this prohibition; however, there were infrequent reports of trafficking in children for purposes of prostitution (see Sections 6.c. and 6.f.).

*e. Acceptable Conditions of Work.*—The minimum wage is \$1.12 (bz\$2.25), except in export industries, where it is \$1.00 (bz\$2.00) per hour. For domestic workers in private households and shop assistants in stores where liquor is not consumed, the rate is \$0.87 (bz\$1.75) per hour. The minimum wage law does not cover workers paid on a piecework basis. The Ministry of Industry, Commerce, Public Services, and Labor is charged with enforcing the legal minimum wage, which generally is

respected in practice. The minimum wage as sole source of income does not provide a decent standard of living for a worker and family. Most salaried workers receive more than the minimum wage.

The law sets the normal workweek at no more than 6 days or 45 hours. It requires payment for overtime work, 13 public holidays, an annual vacation of 2 weeks, and sick leave for up to 16 days. An employee is eligible for severance pay provided that he was employed continuously for at least 5 years.

The exploitation of undocumented Guatemalan, Honduran, and Salvadoran workers, particularly young service workers and possibly some agricultural workers, continued to be a problem. Banana farm owners slowly are moving the housing they provide for their workers away from the fields where poisonous pesticides are sprayed. Health clinics in the region report that the most frequently treated ailments are pesticide-related skin conditions. Company-provided housing often lacks electricity and water. The Government, the HRCB, and other concerned citizens all focus on this problem; however, since turnover rates of banana workers are so high, organizing this segment of the work force is difficult.

A patchwork of health and safety regulations covers numerous industries, and the Labor Department in the Ministry of Industry, Commerce, Public Services, and Labor enforces these regulations to varying degrees. Enforcement is not universal, and the ministries commit their limited inspection and investigative resources principally to urban and more accessible rural areas where labor, health, and safety complaints have been registered. Workers have the legal right to remove themselves from a dangerous workplace situation without jeopardy to continued employment.

*f. Trafficking in Persons.*—Although the law does not specifically prohibit trafficking in persons, it does proscribe procurement for the purpose of prostitution. Nonetheless, one dance hall owner reportedly recruited women from Guatemala, Honduras, and El Salvador to work as prostitutes by promising them jobs as dancers, waitresses, or domestics. Upon arrival, the employer allegedly takes their passports, forces them to engage in prostitution, and holds their wages. The police have investigated, but had not made any arrests by year's end, nor had the Government taken any other steps to address this practice.

The Ministry of Human Development, Women, and Civil Society, the police department, and—in cases involving migrant children—the Ministry of National Security and Immigration investigate and attempt to remedy cases that involve trafficking in children (see Section 5). According to a spokesperson from the Human Development Department, there were infrequent reports of trafficking in children for the purpose of prostitution; most involved migrant children.

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## BOLIVIA

A constitutional, multiparty democracy with an elected president and bicameral legislature, Bolivia has separate executive, legislative, and judicial branches of government, with an attorney general independent of all three. President Hugo Banzer Suarez of the Nationalist Democratic Action party took office in August 1997. The government coalition controls the Senate but only has a plurality of 57 out of 130 seats in the Chamber of Deputies. However, the coalition holds the leadership positions in both chambers. The executive and legislative branches suffer from corruption and inefficiency to some extent. The judiciary, while independent, also is corrupt and inefficient.

The National Police have primary responsibility for internal security, but military forces can be called upon for help in critical situations, and this occurred during the year. The police provided security for coca eradication work crews in the Chapare region. A special counternarcotics force (FELCN), including the Mobile Rural Patrol Unit (UMOPAR), is dedicated to antinarcotics enforcement. Civilian authorities generally maintain effective control over the security forces; however, some members of these forces committed human rights abuses.

Bolivia has extensive poverty, and many citizens lack access to such basic services as potable water, sewage, electricity, and primary health care. Per capita gross domestic product (GDP) is about \$1,087. According to the World Bank, between 1993 and 1999, approximately 67 percent of the population lived below the national poverty line. The country is rich in minerals and hydrocarbons, and extensive investments in petroleum deposits in the eastern and southern parts of the country are expected to form a basis for strong GDP growth in the future. However, most workers engage in traditional agriculture, and many citizens remain barely linked to the cash economy.



The Government generally respected the human rights of its citizens; however, problems remain in certain areas. Legal and institutional deficiencies prevented the full protection of citizens' rights. In April violent demonstrations and road blockages broke out in Cochabamba over a controversial municipal water project, and unrelated protests occurred across the country, leading to the deaths of protesters as well as members of the security forces; commerce was brought to a virtual halt. On April 8, President Banzer declared a state of siege, which Congress approved on April 13. The stage of siege ended on April 20. Nongovernmental human rights organizations criticized the state of siege and the killings, injuries, and preventive detentions that took place during it. Violent demonstrations and other confrontations due to an unrelated list of grievances against the Government also took place in September and October, and resulted in the deaths of up to 10 civilians, 4 security officials, and the spouse of 1 of the security officials. There were a number of allegations of torture. There were credible reports of abuses by police, including use of excessive force, petty theft, extortion, and improper arrests. Investigations of alleged official abuses were slow. Prison conditions are harsh and at times police arbitrarily arrested and detained persons. The most pervasive human rights abuse continued to be prolonged incarceration of detainees due to antiquated procedures and inefficiency and corruption in the judicial system. Other problems include infringements on citizens' privacy rights, government attempts to intimidate some news media, violence and discrimination against women, abuse of children, discrimination against and abuse of indigenous people, discrimination against Afro-Bolivians, child labor, inhuman working conditions in the mining industry, and trafficking in women.

#### RESPECT FOR HUMAN RIGHTS

##### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Political and Other Extrajudicial Killing.*—There were no reports of politically motivated killings. However, security forces killed some protesters during violent demonstrations in April and September.

In April violent demonstrations and road blockages broke out in Cochabamba over a controversial municipal water project. These demonstrations, combined with unrelated protests across the country, brought commerce to a virtual halt. On April 8, President Banzer declared a state of siege. Under a state of siege, the President has the authority to forbid demonstrations that threaten the public order and detain persons who are suspected of plotting against the public order (see Section 1.d.). In the days that followed, there were violent clashes between security forces and demonstrators. It appears likely that at least three out of the four civilians killed during the April demonstration were killed by security forces. In addition, 1 army officer was killed, and over 50 persons were injured. The state of siege ended on April 20.

On October 10, the civilian justice system ordered 17 military officers and soldiers to testify or face arrest on charges in the death of a protester on April 8 in Cochabamba. The military officials did not testify and sought to have the case transferred to the military justice system at year's end. The Government agreed to pay all medical costs, as well as compensation up to \$1,575 (10,000 bolivianos), to those injured in the violent disturbances in April, September, and October, depending on the severity of the injury. In addition, the Government awarded up to \$2,362 (15,000 bolivianos) in compensation to the families of those killed in April and up to \$3,937 (25,000 bolivianos) to the families of those killed in September. At year's end, the Government was paying the medical costs and had compensated the families of those persons killed in April but had not yet compensated those injured in April, September, and October, nor paid compensation to the families of those killed in September.

The military justice case against alleged sharpshooter Captain Robinson Iriarte Lafuente, who was videotaped by television news organizations in civilian clothes kneeling alongside troops and firing a rifle during the disturbances in Cochabamba, was pending at year's end. On April 27, Captain Iriarte testified before the congressional Human Rights Committee that he fired shots in three different locations at walls and buildings to intimidate civilians who were rioting nearby. Iriarte claimed that each time he received permission from a superior officer at the scene. Armed Forces Commander Admiral Jorge Zabala earlier told the Congressional Human Rights Committee that, during the state of siege, soldiers only were authorized to fire live ammunition by order of their commander, and the 7th Division Commander, Brigadier General Jose Antonio Gil, testified that he gave no such order.

The Constitution provides for declaration of a state of siege, which the Congress must approve, and many administrations have utilized it. In August the Constitutional Tribunal affirmed the constitutionality of the state of siege. However, human

rights organizations criticized the state of siege and the resulting deaths, injuries, and detentions (see Section 1.d.).

Violent demonstrations and other confrontations, due to an unrelated list of grievances against the Government, also took place in September and October. Protesting groups ranged from illegal coca growers in the Chapare, indigenous farmers in the highlands, to urban and rural teachers' unions, to groups protesting a controversial municipal water project in Cochabamba. These demonstrations resulted in the deaths of up to 10 civilians, and approximately 180 civilians were injured. At least three of these deaths were not plausibly attributable to the security forces. The Government enjoined the security forces to act with restraint and to avoid head-to-head conflict with demonstrators, and their performances generally were in keeping with these orders, despite violent provocations (see Section 2.b.). In addition, four security officials and the spouse of one of them disappeared in the Chapare during the disturbances and later were found tortured and murdered. Another security official was missing and presumed dead at year's end.

The case of the November 1999 death of Miguel Angel continued to move slowly through the judicial system. Rivero Siles, a 17-year-old prisoner accused of murder, died due to severe burns suffered while he was held in a solitary confinement cell at San Sebastian prison in Cochabamba. Investigations into actions by police at the prison continued during the year. The authorities removed the prison governor, closed the solitary confinement cells, and replaced them with a regular jail cell that is used to punish prisoners for poor behavior by isolating them from the rest of the prison (see Section 1.c.).

The case of 18-year-old Marcelo Botelho, who police arrested in October 1999 in Santa Cruz and who died the next day in a hospital, was closed. Although there were allegations that the police had beaten Botelho, there were no eyewitness reports, and the Government did not pursue a case against the police.

On May 20, 1999, police arrested Peruvian businessman Carlos Freddy Cano Lopez, after he refused to pay a disputed taxi fare. Cano suffered third degree burns over 50 percent of his body when his cell mysteriously caught fire. The authorities transferred Cano to a hospital in Lima, Peru, where he died in June 1999. The authorities suspended the policemen in question and their judicial case was pending at year's end.

On January 13, the Government completed investigations and issued reports concerning the five unresolved cases of civilian deaths during the fatal confrontations between security forces and illegal coca growers in the Chapare in the spring of 1998. The reports were forwarded to the Cochabamba district attorney who recommended on February 1 that all five cases (plus two others) be closed. However, a judge in Villa Tunari decided to continue proceedings on three cases and following his decision allegedly received threats, which later apparently ceased. The three cases in question subsequently were transferred to a Superior Court in Cochabamba, which ruled that two of the cases should be closed and that one case, the death of Alberto Coca Cayo, should be sent back to the judge in Villa Tunari to continue proceedings. Military officers charged in the case petitioned for the case to be transferred to the military justice system. The case was transferred back to the superior court in Cochabamba, where the decision as to which jurisdiction would consider the case was pending at year's end.

After 2-1/2 years, the Government completed its investigations into the December 1996 events at Amayapampa and Capasirca that left nine civilians and one policeman dead in clashes between miners and security forces. The findings held five military officers responsible but absolved then-President Gonzalo Sanchez de Lozada and his ministers of any responsibility. The cases against the accused officers were pending in the military justice system at year's end; five officers were reassigned to nonoperational units pending the outcome of their legal cases. An attempt in Congress to censure Sanchez de Lozada and his ministers also was pending at year's end. The Government's delay in completing effective investigations and identifying and punishing those responsible for either civilian or security force deaths results in an atmosphere of impunity.

There was violence during the year against government security forces and coca eradication crews. On January 20, an unknown assailant shot and killed Joint Eradication Task Force (JTF) conscript Raul Almendras; police later arrested a coca grower as a suspect in the murder. On May 14, a government helicopter flying in support of eradication efforts was fired upon; one JTF soldier was wounded. The JTF in the Chapare was fired upon on August 2, and the Ecological Police, who provide security for the JTF, returned fire and wounded one of the assailants, who subsequently was arrested along with a companion. On August 18, there were two serious explosive incidents that injured a policeman and another government employee. One suspect subsequently was arrested. In separate booby trap blasts on October

11, a coca eradication soldier and a civilian were injured. On October 21, as the JTF near Puerto Zudanez was returning to base camp, it was fired upon. Two members of the JTF were killed and four were wounded. On November 13, the JTF column was ambushed while proceeding to eradicate coca in the Ismael Montes sector. One policeman, Abad Espinoza, was killed.

There were several reported cases of alleged criminals lynched or burned by civilians, sometimes resulting in death, for their alleged crimes.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

The case of Jose Carlos Trujillo Oroza drew renewed attention as the most prominent of the cases of those who disappeared during the 1971–78 de facto regime of President Hugo Banzer Suarez. Trujillo's mother presented the case to the Inter-American Court of Human Rights in June 1999. The security forces had detained Trujillo, a 21-year-old university student, in December 1971, and he never was seen again after February 2, 1972. Trujillo's mother first presented his case to the Inter-American Commission on Human Rights in September 1992. In 1996 President Sanchez de Lozada's Government accepted responsibility for Trujillo's arrest and disappearance and named those responsible, but did not hold them accountable. On January 25, the Banzer Government accepted responsibility for Trujillo's arrest and disappearance before the Court. The Government offered to begin negotiations with Trujillo's mother, who is seeking the return of her son's remains and punishment for those responsible, with the goal of an amicable settlement. These negotiations still were unsuccessful at year's end. The Government was pursuing cases against some persons accused of torture and deprivation of freedom, but not murder, in the Trujillo case. At year's end, the family was appealing the decision of the judicial system not to pursue murder charges.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits torture, and the Government generally respects this provision; however, there were a number of significant allegations of torture, beatings, and abuse by members of the security forces. There were no independently confirmed reports of abuse or beatings by security forces of civilians during the year.

During the April state of siege (see Section 1.a.), there were allegations that the military took residents of Achacachi into custody in the middle of the night and beat them in an attempt to learn the names of those responsible for the death of an army captain. The army captain was an officer in a unit thought by demonstrators to be responsible for the earlier death of a civilian in Achacachi. A mob beat the captain, and after he was taken to a hospital, dragged him from the hospital and beat him to death. There also were allegations that arrestees from Patacamaya during the state of siege were beaten by the military prior to being transferred to the custody of the PTJ.

There were allegations that security officials beat protesters who they detained in the Chapare during the September-October disturbances, as well as allegations that they beat civilians to try to learn the location of missing security officials and the names of those responsible for their deaths.

There also were credible allegations that military officers and sergeants beat and otherwise mistreated military conscripts. The military justice case against superiors accused of allegedly beating conscript Roger Candia Vallejos in September and November 1999 continued at year's end.

Several police officers were fired and charged for off-duty crimes, and a number were dismissed for corruption. However, in general the police were not disposed to investigate their own colleagues, and prosecutors were reluctant to prosecute security officials for alleged offenses committed while on duty.

Neither the technical and judicial police nor prosecutors normally receive human rights training. Over 6,000 FELCN members, PTJ members, lawyers, prosecutors, and judges received training on bail provisions of the new Code of Criminal Procedures. In July foreign consultants conducted a 1-week human rights course for 33 FELCN investigators. The basic FELCN and UOPAR training includes a human rights module.

In September 1999, the military signed a cooperation agreement with the Ombudsman's office and, in November 1999, the military concluded an agreement for cooperation and coordination for human rights training with the Ministry of Justice and Human Rights, which took place during the year.

Indigenous communities in areas with little or no central government presence impose punishment reliably reported to include the death penalty on members who violate traditional laws or rules, although the Constitution prohibits such punishment.

Prison conditions are harsh. Prisons are overcrowded, and conditions can be life threatening for inmates without money. According to the Director General of the Penal System in the Ministry of Government, as of July there were approximately

8,500 prisoners in facilities designed to hold 4,400 prisoners. The majority of all prisoners were held for narcotics crimes. The Pardon and Extraordinary Freedom Jubilee 2000 Law, an amended version of which took effect on December 8, is expected to reduce this overcrowding. The law pardons prisoners under the age of 21 or over the age of 60; reduces felony sentences by one-third for all prisoners sentenced prior to August 30; and pardons prisoners who are parents of minor children and have completed at least 50 percent of their sentences. (Reductions in felony sentences are not extended to prisoners convicted of murder, parricide, or treason, nor to most prisoners convicted of terrorism, rape, or narcotics trafficking. In addition, prisoners who were convicted for murder, rape, kidnaping, terrorism, or narcotics crimes and sentenced to more than 10 years in jail are not eligible for the benefits given to prisoners under age 21 or over age 60, or to parents of minor children.) The one-third reduction in sentences is expected to be that many prisoners would then have served over 50 percent of their sentences and thus be eligible for parole much sooner than expected. The law is expected to lead to the release of between 1,500 and 2,000 prisoners over the course of 2001.

Ability to pay can determine a prisoner's cell size, visiting privileges, day-pass eligibility, and place or even length of confinement. Cell prices range from \$20 to \$5,000 (125 to 30,000 bolivianos), paid to prior occupants or to prisoners who control cell blocks. For example, in the poorest parts of San Pedro prison in La Paz, inmates occupy tiny cells (3 by 4 by 6 feet) with no ventilation, lighting, or beds. Crowding in some "low-rent" sections obliges inmates to sleep sitting up. Although only children up to 6 years old are supposed to live with an incarcerated parent, children as old as age 12 live with their fathers in San Pedro prison. According to the Director General, as of July there were 900 children living with a parent in prison. If such children have nowhere else to go, the Government considers it more humane to support them in prison than to leave them homeless in the streets. The standard prison diet, according to a 1995 study, can cause anemia; the diet has not been improved since then. The Government budgets only \$0.32 (2 bolivianos) per prisoner per day for food. Prisoners who can afford to use their own money to supplement the standard prison diet by buying food do so. There is no adequate health care within the prisons, and it is very difficult for prisoners to get permission for outside medical treatment. However, affluent prisoners can obtain transfers to preferred prisons or even to outside private institutional care for "medical" reasons. Drugs and alcohol are readily available for those inmates who can pay.

There are separate prisons for women; conditions for female inmates are similar to those for men.

Convicted juvenile prisoners are not segregated from adult prisoners in jails. Rehabilitation programs for juveniles or other prisoners are scarce to nonexistent. The Government has acknowledged these problems but does not have sufficient resources to correct them quickly.

On June 28, Brazilian prisoner Mustafa Samir was found hanged and on June 29, Peruvians Omar Casis and Renaldo Montesinos were shot and killed at the maximum security San Pedro de Chonchocoro prison located near La Paz. Investigations into these deaths were pending at year's end. The prison houses the country's most violent prisoners and terrorists.

Unlike 1999 there were no instances of prisoners dying from fires in their cells during the year. In November 1999, prisoner Miguel Angel Rivero Siles died as the result of a fire in his prison cell; in May 1999 Carlos Freddy Cano Lopez was arrested and suffered severe burns after his cell mysteriously caught fire. He died in a hospital that June (see Section 1.a.). These were the second and third times since 1998 that prisoners had been burned in their cells. In 1999 the authorities discharged the two policemen arrested for attempting to burn a drunken man in September 1998, but their judicial case still was pending at year's end. On November 29, 1999, the Ombudsman and the Ministry of Government signed an agreement that led to the closing of several prisons determined to have inhuman conditions, including the detention cell in La Paz where Cano Lopez was burned. The agreement also called for repair of other substandard prisons, including San Sebastian prison in Cochabamba where Rivero Siles was burned. The San Sebastian solitary confinement cells subsequently were removed and replaced by a regular jail cell (see Section 1.a.).

In October 1999, Marcelo Botelho died in a Santa Cruz hospital and human rights organizations alleged that police had beaten the victim. However, there were no eyewitness reports, and the Government did not pursue a case against the police (see Section 1.a.).

The Government permits prison visits by human rights monitors and news media representatives.

*d. Arbitrary Arrest, Detention, or Exile.*—There were some instances of arbitrary arrest and detention. Arrests are carried out openly. The law requires a valid warrant, which a court must confirm within 48 hours. However, there were credible reports that these legal safeguards were violated in some cases.

On April 8, President Banzer declared a state of siege (see Section 1.a.), which under the Constitution provides for the detention of persons who are suspected of plotting against the public order. Those detained must be brought before a judge within 48 hours. The authorities detained 22 persons seen as instigators of the protests. Those detained included Felipe Quispe Huanca, executive secretary of the Sole Trade Union Confederation of Peasant Workers of Bolivia (CSUTCB), and several other trade unionists, peasant leaders, and university students. Quispe, the leader of indigenous farmers who manned roadblocks outside La Paz, is a former terrorist in the Tupaj Katari Guerrilla Army who was imprisoned during 1992–97 and then granted conditional release. Another approximately 50 persons were arrested for violating the state of siege and later released. The Ombudsman and human rights organizations challenged the detentions as illegal, since the authorities detained the 22 persons on April 7, prior to the April 8 supreme decree that enacted the state of siege. All 22 detainees were released by April 14, and the state of siege ended on April 20. The La Paz superior court and the Constitutional Tribunal both ruled in favor of the habeas corpus petitions after the detainees already had been released. The Ombudsman's office noted that this state of siege was the first in which habeas corpus was used as a legal tactic to attempt to force the Government to release detainees. There were allegations that the military beat residents of Achacachi and arrestees from Patacamaya during the state of siege (see Section 1.c.).

Denial of justice through prolonged detention remains the most pervasive human rights problem. Judicial corruption, a shortage of public defenders, inadequate case-tracking mechanisms, and complex criminal justice procedures keep persons incarcerated for months, or even years, before trial. The Constitution provides for judicial determination of the legality of detention. Prisoners are released if a judge rules detention illegal, but the process can take months. Prisoners may see a lawyer, but approximately 70 percent cannot afford legal counsel, and public defenders are overburdened (see Section 1.e.).

According to a 1998 study, approximately 60 percent of those jailed still were waiting for the processing of their cases to be finished, and of those, 30 percent already had served what would have been the maximum sentence for the crime they were accused of committing.

The Government continued to address the problem of delay of justice by implementing the 1994 constitutional reforms to streamline the judicial system and by taking measures to correct other deficiencies as they come to light. In May provisions of the new Code of Criminal Procedures replaced the release provisions of the Personal Recognizance Law, promulgated in 1996, which were never utilized effectively. Most prisoners still await either trial or sentencing, but under the new Code of Criminal Procedures the courts are beginning to provide release on bail for some prisoners. Judges still have the authority to order preventive detention for suspects under arrest deemed to be a flight risk or for obstruction of justice. If a suspect is not detained, a judge still can order significant restrictions on a suspect's travel.

The expanding public defender program provides concise information about human rights to citizens and seeks to involve public defenders in arrest cases at the earliest possible juncture to ensure that human rights and due process are honored. A program of mobile public defenders who can reach the more remote parts of the country has proven effective.

Children from 11 to 16 years of age can be detained indefinitely in children's centers for known or suspected offenses, or for their protection, simply on the orders of a social worker. There is no judicial review.

The 1997 abduction case of Waldo Albarracin, President of the Bolivian Permanent Assembly for Human Rights (APDH), continued to move slowly through the judicial system. The authorities had yet to take any action regarding the four police officials accused of abducting Albarracin, although legal cases against two policemen were pending at year's end.

The Government does not use forced exile as a punishment.

*e. Denial of Fair Public Trial.*—The judiciary is independent; however, corruption and intimidation in the judicial system remain major problems. Poor pay and working conditions help make judges and prosecutors susceptible to bribes.

The judicial system has four levels of trial: Investigative, trial, superior court, and Supreme Court or Constitutional Court appellate review. Since the establishment of the Constitutional Court in 1998, the Supreme Court hears only appeals of substantive laws, not constitutional issues. The system is essentially a closed, written system. With rare exceptions, a judge does not interview witnesses, nor does an op-

portunity to examine and cross-examine witnesses before the judge exist. The highly formal and corrupt judicial system makes it difficult for poor, illiterate persons to have effective access to courts and legal redress.

In cases not involving the narcotics law, a judge of instruction is in charge of the first stage. The judge instructs the police about what witness statements he wishes to take. A prosecutor, who is an overseer of correct procedure, may intervene, if the judge deems it necessary, to give an advisory opinion. Often this opinion is provided in advance and contains the statements of all witnesses interviewed by the police or the prosecutor. If the judge finds that the evidence is conclusive of guilt, the judge submits the case to a sentencing judge for review. This second stage of trial involves an analysis of this evidence by the trial judge, who allows the defense to present additional evidence. The trial judge is not required to seek additional evidence, although the judge may add additional witnesses to be interviewed if deemed necessary.

In narcotics (Law 1008) cases, the FELCN handles the investigative stage, and there is no judicial review of cases to determine whether a case should move to the trial stage. This is expected to change when the new Code of Criminal Procedures takes full effect in 2001, and narcotics cases are expected to be handled the same as non-narcotics cases in the first two stages. The third stage of Superior Court review is essentially a review of all evidence, and the court may reopen the case for additional witnesses. The Supreme Court review, which is virtually automatic if sought in non-narcotics cases and is required in all narcotics cases, is a fourth iteration of that process. During the superior court and Supreme Court reviews, the courts may confirm, lower, raise, or annul sentences, or provide alternatives not contemplated in lower courts. The repetitive nature of this four-stage procedure requires a great deal of time before a final result is reached in an individual case.

Defendants have constitutional rights to a presumption of innocence, to remain silent, to an attorney, to confront witnesses, to present evidence on their own behalf, to essential due process, and to appeal judicial decisions. However, in practice almost none of these rights systematically exist. The full implementation of the new Code of Criminal Procedures on May 31, 2001, is expected to alleviate some of these problems. The new code is expected to facilitate more efficient investigations, transparent oral trials, and credible verdicts. Although the law provides for a defense attorney at public expense if needed, one is not always promptly available. The Government has hired 49 additional staff members to bolster rural public defense, achieving a total of 167 public defenders, legal assistants, and social workers.

In October 1999, the Constitutional Court ruled that the Judicial Council, established in 1998 to oversee the judicial process and to provide an impartial body to review the actions of judges, did not have the power to dismiss a Superior Court or higher level judge due to an administrative finding of malfeasance alone. The Court ruled that the removal of such a judge from office requires a final judgment and sentence of conviction in a criminal case tried before the Supreme Court. The Council retains its power to suspend without pay, for up to 13 months, judges against whom a criminal charge has been filed or against whom a disciplinary process has been initiated.

In early 1999, the Council had investigated numerous reports of judicial corruption, which led to the resignation or dismissal of more than 20 judges in Santa Cruz, Cochabamba, and La Paz. One of the dismissed judges, who allegedly accepted bribes from narcotics traffickers, protested his dismissal to the Constitutional Court, which ruled that only a court finding of malfeasance, rather than a finding by an administrative body such as the Council, was cause for dismissal. The Court's decision dealt a serious blow to the Judicial Council and weakened its role as a disciplinary body. At year's end, legislation was pending that would increase the Council's suspension powers to 3 years or would reinstate the Council's power to dismiss judges found guilty of malfeasance by the Council.

There were no reports of political prisoners.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The Constitution provides for the sanctity of the home and the privacy of citizens; however, while the authorities generally respect these provisions, there were credible allegations of UMOPAR abuses involving thefts of property. Residents in the cocagrowing areas generally are reluctant to file and pursue formal complaints. On May 17, the Government reopened a human rights office of the Ministry of Justice and Human Rights in Chimore in the Chapare region (see Section 4).

#### *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for the fundamental right to express ideas and opinions freely by any means of dissemination; however, there are some limitations on freedom of speech, and the Government attempted to

intimidate some news media. The Penal Code provides that persons found guilty of insulting, defaming, or slandering public officials for carrying out their duties may be jailed from 1 month to 2 years. If the insults are directed against the President, Vice President, or a minister, the sentence may be increased by one-half.

Press organizations alleged that the Government intentionally cut off electricity for 2 hours on April 8 in Cochabamba during the state of siege in order to silence radio and television stations (see Sections 1.a. and 1.b.). There has been no investigation of these allegations, by either press organizations or the Government.

The 40-person La Paz Press Tribunal is authorized to evaluate journalists' practices that are alleged to violate either the Constitution or citizens' rights.

Newspapers are privately owned, and most adopt antigovernment positions. State-owned and private radio and television stations operate freely. There were credible reports of government attempts to intimidate some news media to provide more favorable coverage.

The Government prohibits the importation of pornographic books, magazines, and artwork.

The Government respects academic freedom, and the law grants public universities autonomous status.

*b. Freedom of Peaceful Assembly and Association.*—The law provides for the right of peaceful assembly, and the authorities generally respect this right in practice; however, under the state of siege the Government imposed some limits on this right. The Government routinely grants permits for marches and rallies. There were numerous demonstrations throughout the year; in some cases protesters blocked roads. The Governor of La Paz temporarily instituted a ban on public gatherings of more than three persons during the state of siege.

As a rule, the authorities try to avoid confronting demonstrators. However, security forces clashed with union and other demonstrators on many occasions during the year, resulting in some deaths and hundreds of injuries (see Section 1.a.). The authorities intervened only when rallies became dangerously violent or interfered substantially with normal civic activity. The authorities regularly use tear gas and other forms of crowd control. In early February, violent protests over increases in municipal water prices left 130 persons injured (including 30 police) and led to the arrest of 180 persons.

The law provides for freedom of association, and the authorities generally respect this right in practice. The Government requires nongovernmental organizations (NGO's) to register with the appropriate departmental government. There were complaints in 1999 against the departmental government of La Paz for the revocation of civil registrations for three NGO's established by the Unification Church (see Section 2.c.).

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government respects this right in practice. Roman Catholicism predominates, and the Constitution recognizes it as the official religion. Non-Catholic religious organizations, including missionary groups, must register with the Ministry of Foreign Affairs and Worship and receive authorization for legal religious representation. There were 268 registered religious groups, which were mostly Protestant; at year's end, approximately 130 applications were pending. The only minority religions in the country that have encountered problems are Hari Krishna and the Unification Church. Hari Krishna had registered as an educational organization instead of as a religious organization. The Government sought to expel Hari Krishna from the country in the mid-1980's; however, the attempt failed when the Supreme Court declared it illegal. According to the Government, in 1999 it denied for lack of documentation a Hari Krishna application for registration as a religious organization. In August 1999, the Unification Church complained of ongoing harassment by the Government, specifically citing the August 1998 revocation by the La Paz departmental government of three civil registrations for church-affiliated NGO's. However, the Unification Church still is registered legally with the Ministry of Foreign Affairs and Worship as a religious organization.

On July 21, President Banzer signed a Supreme Decree governing the relationships between religious organizations and the Government. The decree updates a similar decree dating from 1985, which had been the subject of criticism by Catholic and non-Catholic religious groups. The new decree reflects input from religious groups and, according to the Government, is designed to increase transparency and dialog in church-state relations.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—There are no restrictions on travel. However, on numerous occasions during the year protestors blocked roads and highways. The law permits emigration and provides for the right to return. The Government does not revoke citizenship for political reasons.

The law provides for the grant of asylum or refugee status in accordance with the provisions of the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol.

The Government cooperates with the office of the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees. The Government has accepted persons for resettlement; it received 2 refugees during the year, over 40 refugees in 1999, and 5 refugees in 1998. The issue of the provision of first asylum did not arise. After the 1996 takeover of the Japanese Ambassador's residence in Lima, Peru by Tupac Amaru Revolutionary Movement (MRTA) terrorists, the authorities found that some MRTA activists had used Bolivia as a safehaven and announced a more restrictive policy on accepting Peruvian political asylees. Nonetheless, members of the MRTA and other terrorists continued to use the country as a safehaven and a place to plan activities.

There were no reports of persons forced to return to a country where they feared persecution.

### *Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The Constitution provides citizens with the right to change their government peacefully, and citizens exercise this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. Political parties ranging from far left to moderate right function openly. Implementing regulations for the 1994 constitutional revisions provide for half of the congressional deputies to be elected individually and directly, rather than from party lists. The first national election under these regulations was held in June 1997, with attendance by international observers. Only one instance of tampering with ballots was detected. Elections for national offices are held every 5 years; the next national election is scheduled for 2002. In August 1997, President Hugo Banzer Suarez of the Nationalist Democratic Action Party took office. His coalition controls the Senate but has a plurality of only 57 out of 130 seats in the Chamber of Deputies. However, the government coalition holds leadership positions in both chambers.

There are no legal impediments to women or indigenous people voting, holding political office, or rising to political leadership; however, women and indigenous people are underrepresented in government and politics. Political parties acceded to demands from women that they be allocated a fair share of the candidacies in the 1997 national elections, approving a law that every third candidate on party lists must be female. In addition every other candidate on municipal election ballots, beginning with the second candidate, must be a woman—a development that has significantly augmented female representation to approximately 30 percent of municipal council positions. However, there have been reports that in some municipalities party leaders have pressured councilwomen to resign in favor of their male substitute, and women in three separate municipalities have allegedly been threatened with death if they do not resign their positions. There are 20 women among the 157 deputies and senators; there are no female ministers in the Cabinet and only 4 women among the 45 vice ministers.

### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of human rights groups operate without government restriction, investigating and publishing their findings on human rights cases. Government officials are generally cooperative and responsive to their views. However, NGO's and the Ombudsman have complained that government security forces and government ministries have refused to cooperate when NGO's or the Ombudsman are conducting investigations. The Government criticizes human rights advocates for paying attention exclusively to the negative aspects of the Government's performance.

APDH President Albarracin and his family have received anonymous threats in relation to the legal case against his alleged police abductors (see Section 1.d.). The APDH's branch office in Santa Cruz also received anonymous threats related to its investigations involving the security forces; in 1999 unknown parties broke into its office and destroyed its computer.

The Human Rights Ombudsman conducted numerous investigations and in August presented a comprehensive report to Congress that was critical of the Government, and particularly cited the fact that the greatest number of alleged violations were attributed to the police. The Chamber of Deputies Human Rights Committee, led by an opposition party congressman, also presented its annual report in August, which criticized the Government.

On May 17, the Government reopened a human rights office of the Ministry of Justice and Human Rights in Chimore in the Chapare region with assistance from



an international donor. All of the human rights offices in the Chapare region had closed in June 1999. These offices accept and pursue complaints of human rights abuses committed by anyone, including police, narcotics traffickers, and illegal coca growers.

*Section 5. Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status*

The Constitution prohibits discrimination based on race, sex, language, religion, political or other opinion, origin, or economic or social condition; however, there was significant discrimination against women, indigenous people, and the small Afro-Bolivian minority.

*Women.*—Violence against women is pervasive, but no system exists to register such incidents systematically. According to the National Police's Department of Statistics and Planning, in 1998 approximately 57 percent of reported assaults were perpetrated against women. According to a 1997–98 study conducted by the Pan American Health Organization and the Ministry of Health among women in three municipalities representative of the country's three major cultural and geographic zones, 62 percent of women reported experiencing some kind of domestic violence or abuse at least once in their lifetime. Approximately 21 percent had suffered psychological abuse, 28 percent had suffered non-life-threatening physical violence, and 13 percent had suffered life-threatening violence. Rape is also a serious problem that is highly underreported. It is estimated that only one out of every five incidents of violence against women is reported.

The 1995 Law on Domestic and Family Violence makes the rape of an adult victim a public crime; however, the victim must press charges. The law also broadens the definition of family member abuse. The 1999 Law against Sexual Violation created the new crime of statutory rape of a person from 14 to 18 years of age and established new penalties of 10 to 20 years' imprisonment for the rape of a child under the age of 14, 2 to 6 years' imprisonment for statutory rape, and 5 to 20 years' imprisonment for the rape of an adult. The new Code of Criminal Procedures provides that crimes against adults included in previous laws on sex crimes can be made public crimes; however, the victim must press charges. Sexual crimes against minors automatically are considered public crimes. Public agencies state that reported incidents of abuse have increased markedly as a result of the recent laws, as citizens become more aware of the problem and of the availability of help. There was no further action on proposed legislation to provide benefits and protection for domestic workers, including specific protection from physical, psychological, and sexual aggression.

In October 1999, President Banzer signed the Law to Protect Victims of Crimes Against Sexual Freedom, first proposed in 1997 as a draft law against sexual harassment. The new Code of Criminal Procedures (see Section 1.e.) for the first time considers sexual harassment a civil crime, also resulting in greater protection under the law. There are no statistics on the incidence of sexual harassment, but the problem generally is acknowledged to exist widely in the male-oriented society.

Prostitution is legal for adults age 18 and older, and there were reports of trafficking in women for the purpose of prostitution (see Section 6.f.).

Legal services offices devoted to family and women's rights operate throughout the country. Family protection police units, staffed by specially trained officers, including women, also are active.

The Maternal and Infant Health Insurance Program, which began in 1996 and was expanded to the Basic Health Insurance Program in 1999, provides 75 types of health services, focused on maternal and infant health, to women of reproductive age and to children under the age of 5.

Women generally do not enjoy a social status equal to that of men. Many women do not know their legal rights. Traditional prejudices and social conditions remain obstacles to advancement. Women generally earn less than men for equal work; however, the minimum wage law treats men and women equally.

Most women in urban areas work in the informal economy and the services and trade sectors, including domestic service and micro-business, whereas in rural areas the vast majority of economically active women work in agriculture. Young girls often leave school early to work at home or in the economy. According to a 1997 study by the Ministry of Education, four out of five illiterate citizens are female. Girls have lower rates of school participation and higher dropout rates than boys. Although not effectively enforced, the national labor law limits women to a workday 1 hour shorter than that of men and prohibits them from working at night.

*Children.*—The Government is aware of the precarious situation of children and the need to provide legal and institutional infrastructure for their protection. Seven Defender of Children and Adolescents offices were opened in 1997 in La Paz to help

protect children's rights and interests. However, the Government has not given the poor situation of children sufficient political priority to ensure that it can be improved quickly and effectively. In December the Government's Inter-Institutional Commission for the Progressive Elimination of Child Labor released a new national plan to address the problem of child labor, which includes programs to address financial, health, education, and other needs of children (see Section 6.d.).

In October 1999, President Banzer signed into law a new Code for Boys, Girls, and Adolescents, which codifies many obligations the country assumed by ratifying the U.N. Convention on Rights of the Child. It also regulates adoptions and tightens protection against exploitative child labor and violence against children. However, resource constraints are expected to impede full implementation of this law.

Children from 11 to 16 years of age can be detained indefinitely in children's centers for known or suspected offenses, or for their own protection, simply on the orders of a social worker (see Section 1.d.). Corporal punishment and verbal abuse are common in school, and physical and psychological abuse in the home also are serious problems.

Although the law requires all children to complete at least 5 years of primary school, this requirement is enforced poorly, particularly in rural areas. The Ministry of Education and the World Bank calculated in 1997 that 26 percent of children graduated from high school. Prolonged teachers' strikes often result in lengthy school closures, limiting children's access to education.

The National Institute of Statistics calculated in 1998 that approximately 24 percent of children under 3 years old were chronically undernourished. A December 1999 UNICEF report on infant mortality indicated that 85 of every 1,000 children die before they reach 5 years of age.

Many children, particularly from rural areas, lack the birth certificates and identity documents they need to secure social benefits and protection.

Although laws provide safeguards against children working, they are not enforced effectively. According to a May 1999 study commissioned by the International Labor Organization (ILO), approximately 369,385 children between the ages of 7 and 14 work (23 percent of that age group), usually to help provide for family subsistence, in uncontrolled and sometimes unhealthy conditions (see Section 6.d.).

Child prostitution is a problem, particularly in urban areas and in the Chapare region. At least two NGO's, Fundacion La Paz and Q'Haruru, have active programs to fight child prostitution. The Government's plan to combat child labor includes a campaign against child prostitution (see Section 6.d.).

The old practice of "criadito" service still persists in some parts of the country. Criaditos are indigenous children of both sexes, usually 10 to 12 years old, whom their parents indenture to middle- and upper-class families to perform household work in exchange for education, clothing, room, and board. There are no controls over the benefits to, or treatment of, such children, who may become virtual slaves for the years of their indenture.

There were unconfirmed reports that children sometimes were sold to work in sweatshops in Argentina (see Section 6.f.).

*People with Disabilities.*—In 1997 the Government promulgated regulations to implement the 1995 Law on Disabilities. The regulations require wheelchair access to all public and private buildings; duty free import of orthopedic devices; a 50 percent reduction in public transportation fares; and expanded teaching of sign language and Braille. A National Committee for Incapacitated Persons was established to oversee the law's enforcement, conduct studies, and channel and supervise programs and donations for the disabled. The electoral law makes arrangements for blind voters. However, in general there are no special services or infrastructure to accommodate disabled persons. A lack of adequate resources impedes full implementation of the law. Social attitudes keep many disabled persons at home from an early age, limiting their integration into society.

*Indigenous People.*—Discrimination against, and abuse of, indigenous people continued. The indigenous majority generally remains at the low end of the socioeconomic scale, facing severe disadvantages in health, life expectancy, education, income, literacy, and employment. More than one-half of all citizens speak indigenous dialects as their first language, and many speak no Spanish at all, which essentially excludes them from most of the formal economy. Lack of education, inefficient farming and mining methods, indigenous cultural practices, and societal biases keep the indigenous people poor. They continued to be exploited in the workplace. Some rural indigenous workers are kept in a state of virtual slavery by employers who charge them more for room and board than they earn. Although the 1996 Agrarian Reform Law extended the protection of the national labor law to all paid agricultural workers, including indigenous workers, the problem persists due to lack of effective enforcement.

The Agrarian Reform Law provides for indigenous communities to have legal title to their communal lands and for individual farmers to have title to the land they work. The Government and indigenous leaders jointly developed provisions of this law. However, the issue of land, specifically the Agrarian Reform Law, has been a constant source of complaints and protests by indigenous people.

Indigenous people complain that their territories are not legally defined and protected, and that outsiders exploit their resources. Specific offenders allegedly are illegal coca growers and timber pirates. Indigenous groups have taken advantage of the Popular Participation Law to form municipalities that offer them greater opportunities for selfdetermination.

Clashes between Laime and Qaqachaca indigenous groups in the border of the Oruro and Potosi departments left dozens dead and injured over the course of the year. These groups have a decades-long history of tension over disputed land.

*National/Racial/Ethnic Minorities.*—There is ongoing societal discrimination against the small Afro-Bolivian minority.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—Workers may form and join organizations of their choosing; however, labor leaders consistently state that a section of the 1985 Economic Liberalization Decree, which addresses the free contracting of labor, undermines any protections against dismissal without cause. Labor leaders allege that employers use or threaten to use this article to limit unionization. The Labor Code requires prior government authorization to establish a union, permits only one union per enterprise, and allows the Government to dissolve unions by administrative fiat; however, the Government has not enforced these provisions in recent years. The law requires the Government to confirm the legitimately elected officers of unions, a difficult role that it is not known to abuse. While the code denies civil servants the right to organize and bans strikes in public services, including banks and public markets, nearly all civilian government workers are unionized. Workers generally are not penalized for union activities; during the April state of siege some union leaders and activists were detained, not for union activities, but for their alleged roles in fomenting disturbances (see Section 1.d.). In theory the Bolivian Labor Federation (COB) represents virtually the entire work force; however, only about one-half of workers in the formal economy actually belong to labor unions. Some members of the informal economy also participate in labor or trade organizations. The CSUTCB, led by Felipe Quispe, is not a trade union in the traditional sense, since there is no counterpart employer with which to bargain. The CSUTCB is designed to maximize the power of indigenous farmers with respect to the Government and traditional trade unions.

On December 6, the Government announced that for the remainder of the President's term of office, it would not introduce legislation to modernize the antiquated Labor Code and patchwork of labor laws and to make them conform with ILO conventions that the country already has ratified.

Workers in the public sector frequently exercise the right to strike. Solidarity strikes are illegal, but the Government has neither prosecuted those responsible nor imposed penalties. Significant strikes centered around annual negotiations over salaries and benefits for public employees. However, their real targets were the Government's economic and social reform programs. During the April disturbances (see Section 1.a.), riot police struck for more pay. Most strikes were conducted and led by the self-described Trotskyite element of the Urban Teachers Union, which protested the Government's education reform plan, including reform of teacher training institutions, a merit-based salary system, and decentralization designed to give municipalities greater control over education. Teachers' strikes shut down public schools for several weeks in late September.

Unions are not free from influence by political parties. The COB itself is a political organization directed by Marxist ideologues. Its stated aim is to end the Government's neoliberal economic program, and it gives little attention to serious collective bargaining. Most parties have labor committees that attempt to influence union activity and also have party activists inside the unions.

The law allows unions to join international labor organizations. The COB became

the COB and the Government to negotiate a global agreement on salaries, minimum wages, and other work conditions each year. With the privatization of most of these enterprises, the COB's relevancy has diminished markedly, and the practice of direct employee-management negotiations in individual enterprises is expanding.

The law prohibits discrimination against union members and organizers. Complaints go to the National Labor Court, which can take a year or more to rule due to a massive backlog of cases. The court has ruled in favor of discharged workers in some cases and successfully required their reinstatement. However, union leaders say that problems are often moot by the time the court rules.

Labor law and practice in the seven special duty-free zones are the same as in the rest of the country.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including forced and bonded labor by children; however, the practices of child apprenticeship and agricultural servitude by indigenous workers (see Section 5) constitute violations, as do some individual cases of household workers effectively held captive by their employers. In addition, women were trafficked for the purpose of prostitution (see Sections 5 and 6.f.).

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The law prohibits all work for payment by children under the age of 14; however, this prohibition generally is not enforced. Child labor is a serious and increasing problem. The Labor Code is ambiguous on conditions of employment for minors from 14 to 17 years of age and permits apprenticeship for those 12 to 14 years old. The ILO has criticized this practice, which is sometimes tantamount to bondage (see Section 6.c). The law also prohibits the employment of persons under 18 years of age in dangerous, unhealthy, or immoral work.

Approximately one in every four children between the ages of 7 and 14 is employed in some way. A May 1999 study by the ILO estimated that approximately 70,000 children between the ages of 7 and 14 were working in cities, and that approximately 300,000 children in the same age group were working in rural areas. The extreme poverty of many families dictates the involuntary employment of their children for motives of survival. After an ILO-sponsored conference in May 1999 on the country's child labor problems, an Inter-Institutional Commission for the Progressive Elimination of Child Labor was formed. The Government also signed a memorandum of understanding with the ILO, pledging more attention to child labor, a 5-year plan to combat it, and adoption of policies against its most dangerous forms. In November President Banzer announced a plan to give small annual payments to families with children between the ages of 6 and 14 who were attending school. In December the Government's Inter-Institutional Commission released its new national plan to address the problem of child labor. The plan, which has not yet been funded, includes programs to give families alternatives to having children work, and to address financial, health, education, and other needs.

The Labor Ministry is responsible for enforcing child labor provisions but generally does not enforce them throughout the country. Although the law requires all children to complete at least 5 years of primary school, this requirement is enforced poorly, particularly in rural areas. Urban children sell goods, shine shoes, and assist transport operators. Rural children often work with parents from an early age, generally in subsistence agriculture. Children generally are not employed in factories or formal businesses but, when employed, often work the same hours as adults. Children also work in the mines and other dangerous occupations in the informal sector. Child prostitution is a growing problem, particularly among girls between the ages of 14 and 18. The law prohibits forced and bonded labor by children; however, the practices of child apprenticeship (*criadito*) and agricultural servitude by indigenous workers constitute violations, as do some individual cases of household workers effectively held captive by their employers (see Sections 5 and 6.c.).

*e. Acceptable Conditions of Work.*—In conformity with the law, the minimum wage is subject to annual renegotiation and was increased in January by 7 percent to approximately \$56 (355 bolivianos) per month, plus bonuses and fringe benefits. The minimum wage does not provide a decent standard of living for a worker and family, and most workers earn more. Although the minimum wage falls below prevailing wages in most jobs, certain benefit calculations are pegged to it. The minimum wage does not cover members of the informal sector, who constitute the majority of the urban work force, nor does it cover farmers, who account for some 30 percent of the working population.

Only one-half of the urban labor force enjoys an 8-hour workday and a workweek of 5 or 5-1/2 days, because the maximum workweek of 44 hours is not enforced. The Labor Ministry's Bureau of Occupational Safety has responsibility for protection of workers' health and safety, but relevant standards are enforced poorly. Many workers have died due to unsafe conditions. However, the Government has requested

technical assistance in the occupational safety area from an international donor. The Labor Ministry maintains a hot line for worker inquiries, complaints, and reports of unfair labor practices and unsafe working conditions.

Working conditions in the mining sector are particularly bad. Although the State Mining Corporation has an office responsible for safety, many mines, often old and using antiquated equipment, are dangerous and unhealthy. In some mines operated as cooperatives, miners earn approximately \$3 (20 bolivianos) per 12-hour day. They work without respirators in mines where toxic gases and cancer-causing dusts abound; they buy their own supplies, including dynamite, have no scheduled rest periods, and many work underground for up to 24 hours continuously. There are no special provisions in the law defining when workers may remove themselves from dangerous situations. Unless the work contract covers this area, any worker who refuses to work based on the individual's judgment of excessively dangerous conditions may face dismissal.

*f. Trafficking in Persons.*—There are no laws that specifically address trafficking in persons, although aspects of the problem are covered in other laws and in the Constitution. There were reports of domestic trafficking in women for the purpose of prostitution. A union leader asserted that employment agencies lure rural indigenous women to cities with promises of employment as domestic servants but then force them to work without salaries to repay transport and other fees and sometimes turn them over to houses of prostitution. There were also unconfirmed press reports that children sometimes were sold to sweatshops in Argentina.

## BRAZIL

Brazil is a constitutional federal republic composed of 26 states and the Federal District. The federal legislative branch exercises authority independent of the executive branch. In 1998 voters elected President Fernando Henrique Cardoso, of the Brazilian Social Democratic Party (PSDB), to a second 4-year term. The 1998 elections marked the third time since the end of military rule in 1985 that citizens freely chose their president and elected the legislative bodies in accordance with the 1988 Constitution. All parties are able to compete on the basis of fair and equal procedures. The judiciary generally is independent; however, it is inefficient and subject to political and economic influence.

The military forces handled national defense and are subject to effective civilian control, both in law and in practice. Police forces fall primarily under the control of the states. State police are divided into two forces. The civil police have an investigative role, and the uniformed police, known officially as the "military police," are responsible for maintaining public order. Although the individual state governments control the uniformed police, the Constitution provides that they can be called into active military service in the event of an emergency, and they maintain some military characteristics and privileges, including a separate judicial system. The federal police force is very small and primarily investigative. It plays little role in routine law enforcement. The state police forces committed numerous serious human rights abuses.

Brazil has a market-based, diversified economy. The Government, which traditionally played a dominant role in shaping economic development, is encouraging greater private sector participation in the economy through privatization of state enterprises, deregulation, and removal of some impediments to competition, trade, and investment. Industrial production, including mining operations and a large and diversified capital goods sector, accounts for approximately 35 percent of gross domestic product (GDP); agriculture contributes about 8 percent. Exports consist of both manufactured and primary goods. Among the principal exports are iron ore, coffee, airplanes, soybeans, and footwear. Per capita GDP was about \$3,400, and the economy grew by 4 percent. Income distribution remained highly skewed: the poorest half of the population received only 10 percent of national income while the richest tenth received 48 percent.

The Government generally respected many of the human rights of its citizens; however, there continued to be numerous serious abuses. State police forces (both civil and uniformed) committed many extrajudicial killings, tortured and beat suspects under interrogation, and arbitrarily arrested and detained persons. Police also were implicated in criminal activity of all kinds, including killings for hire, death squad executions, and kidnappings for ransom. Prison officials often tortured and beat inmates. The state governments concerned did not punish most perpetrators of these abuses effectively. Police tribunals (special courts for the uniformed police) remained overloaded, rarely investigated cases thoroughly, and seldom convicted

abusers. The separate system of uniformed police tribunals contributes to a climate of impunity for police officers involved in extrajudicial killings or abuse of prisoners. Prison conditions range from poor to extremely harsh. The judiciary has a large case backlog and often is unable to ensure the right to a fair and speedy trial. Justice is slow and often unreliable, especially in areas where powerful economic interests influence the local judiciary. Human rights monitors on occasion face threats and harassment. Violence and discrimination against women are problems. Child prostitution and abuse are problems. Despite constitutional provisions safeguarding the rights of indigenous people, government authorities often fail to protect them adequately from outsiders who encroach on their lands, and fail to provide them with adequate health care and other basic services in many areas. Discrimination against Afro-Brazilians is a problem. Violence against homosexuals is a problem. Forced labor continued to be a serious problem. Child labor is a serious problem. There continued to be occasional reports of forced child labor. The Government continued its interministerial campaign against child labor. Trafficking in women and children for the purpose of forced prostitution is a serious problem.

The National Secretariat of Human Rights oversees the implementation of the Government's action plan to address human rights abuses. A new secretary was installed in May. In May U.N. High Commissioner for Human Rights Mary Robinson visited, and U.N. Special Rapporteur for Torture Nigel Rodley visited in August and September. Robinson commented on the Government's recognition of its human rights problems and stated that President Cardoso was on the right track in trying to reduce and eliminate abuses. Rodley noted the poor conditions in prisons and said that in many cases law enforcement authorities who torture prisoners and suspects do so with impunity. The Government undertook several programs to promote the protection of human rights. In 1996 a nongovernmental organization (NGO) established a witness protection program; the Government adopted it in 1999 in an attempt to combat widespread impunity. The Government's inter-ministerial Committee for the Defense of the Human Being (CDDPH), chaired by the National Human Rights Secretary, continued to be an effective instrument to highlight human rights abuses and allocate federal resources to bolster the efforts of the states. However, because of jurisdictional and resource limitations, the efforts of the Federal Government had an uneven and limited impact in many of the states where human rights violations are most common.

#### RESPECT FOR HUMAN RIGHTS

##### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Political and Other Extrajudicial Killing.*—Police committed numerous extrajudicial killings, which continued to be a serious problem throughout the country. The uniformed police summarily executed suspected criminals rather than apprehend them, and then filed false reports that the suspects were resisting arrest. Preliminary estimates from the states of Rio de Janeiro and Sao Paulo alone indicated that the police killed at least 1,000 persons during the year while operating in their "official" capacity. In addition many other killings occurred as the result of death squads and other criminal groups, many of which included police as members. The failure to investigate, prosecute, and punish police who commit such acts creates a climate of impunity that continues to encourage human rights abuses. Harsh conditions in prisons and rioting led to the death of inmates (see Section 1.c.).

The lack of accountability and the inefficient criminal justice system allow impunity to continue. All crimes less serious than murder committed by uniformed police officers against civilians remain in the military justice system. In 1999 an investigation into Sao Paulo's special courts for uniformed police uncovered 1,107 "missing" and "delayed" cases against uniformed police charged with crimes against civilians that include murder and torture. In 1999 a newspaper that had access to 300 cases under investigation found 100 murder charges among them, some delayed for up to 12 years. Equally long delays allowed many cases of torture and lesser charges to expire due to statutes of limitations. This probe was the closest scrutiny ever of the special police courts and resulted in the authorities bringing criminal charges against two court officials.

Human rights activists believe that the 1996 "Bicudo" law, which gives civil courts jurisdiction over intentional homicide committed by uniformed police officers, has had limited success. In 1995—the last year before the implementation of the new law—police courts convicted 23 percent (48 of 205) of officers tried for homicide. In 1998 civilian courts convicted 48 percent (31 of 64) of officers charged with homicide. The comparable rate for civilians tried for murder in Sao Paulo was 50 percent. The law allows for civil prosecutors to review the most egregious cases, while less

prominent cases are reviewed by the police force itself. Almost without exception, the police investigators conclude that suspects were resisting arrest.

Police often were members of vigilante groups and death squads responsible for killings. In addition uniformed and civil police involvement in criminal activity is widespread. Throughout the country, police were implicated in crimes ranging from killing for hire and kidnaping to drug trafficking and extortion.

Reputable NGO's reported hundreds of extrajudicial killings and other abuses of force by police throughout the country during the year.

A Sao Paulo press report indicated that on November 8, a local police officer was arrested near Boa Vista, Roraima, on the accusation that he had participated in the killing of seven adolescents whose noisy party had bothered him.

Two Sao Paulo police officers were arrested on or about December 11 and accused of having killed four persons in a bakery in Sao Bernardo do Campo 5 days earlier. Three other persons were injured in the attack.

In May police shot and killed a member of the Landless Movement (MST) during a confrontation between protesters and uniformed police in the state of Parana (see Section 2.b.). The authorities did not charge or arrest any officer by year's end.

The use of torture by police sometimes led to the death of the victims (see Section 1.c.). The authorities opened an investigation into the death of Nilson Saldinia, who died in February in the 50th district jail in Sao Paulo's Itaim Paulista neighborhood. At year's end, the investigation continued, but no one had been accused.

Police killings of street children continued (see Section 5).

Harsh or dangerous prison conditions, official negligence, poor sanitary conditions, abuse by guards, and a lack of medical care led to a number of deaths in prisons. Inmates in prisons and at juvenile detention facilities rioted repeatedly during the year (see Section 1.c.). Many riots resulted in a number of deaths, but no estimates were available for the number of prisoners killed nationwide during prison riots.

The office of the police ombudswoman in Rio de Janeiro state received 2,894 complaints from April 1999 through December 15, during its first 20 months of operation. Complaints against the uniformed police accounted for 60 percent of that total. There were 312 officially reported police homicides in the first 9 months of the year, compared to 289 in all of 1999. These statistics seriously understate the number of killings by police, as they do not include the deaths of perpetrators allegedly caught in the act of committing a crime. Previous research by the Institute for Religious Studies (ISER) suggests that, to estimate the true number of police homicides, the official figures should be doubled. The ISER report also stated that Rio de Janeiro police killed half of their victims with 4 or more bullets and shot the majority of victims in either the shoulder or the head; 40 cases clearly demonstrated execution-style deaths, where police first immobilized the victims and then shot them at point-blank range. In 64 percent of the cases examined, the victims were shot in the back.

According to the Sao Paulo state government, the uniformed and civil police killed 635 civilians in the first 9 months of the year, an increase of 30 percent over the same period in 1999. A Sao Paulo police ombudsman's report released in July showed that of the 664 persons killed by police officers in 1999, 31 percent were committing crimes at the time they were shot, 56 percent had no previous criminal record, and 51 percent of the victims were shot in the back. Many human rights observers believe that the report reflects excessive use of force by the Sao Paulo police.

In a nationally televised bus hijacking in Rio de Janeiro in June, police wounded a hostage while attempting to shoot the hijacker. The hijacker then killed the hostage. The hijacker was apprehended unhurt, but arrived dead at the hospital after police riding in the ambulance allegedly strangled him. At year's end, one police officer had been acquitted and four awaited trial.

Four uniformed police officers were sent to prison to await trial in a civil court for the highly publicized killing of three persons, including two juveniles (aged 14, 17, and 21) in Sao Paulo in February 1999. The officers arrested the victims for fighting, beat them, then were seen leading them into a forested area near where the bodies were found 2 weeks later. Each victim was shot once in the head. The police officers initially denied having any contact with the victims. They later confessed to the killings after 19 witnesses came forward to testify against them and a DNA test identified blood inside the police car as that of one of the victims. The perpetrators were charged with aggravated triple homicide, abuse of power, and hiding bodies.

The five uniformed police officers arrested in the March 1999 shooting deaths of two persons, one of whom was mentally disabled, in Sao Paulo's Jardim Elba slum, were jailed in September, pending trial. The officers, who allegedly shot the two out-

side of their police car, dragged the bodies inside, and then simulated an exchange of gunfire, were charged with homicide. At year's end, no trial date had been set.

Police sources reported that the investigation continues into the April 1999 death of 20-year-old Ricardo Galvao, who was shot, stabbed, and beaten. Galvao was last seen in a police vehicle after being caught trying to steal a car. On August 11, the police involved in the apprehension were expelled from the police force. The authorities charged two civilians with Galvao's death.

Four uniformed policemen are still in custody awaiting trial in the August 1999 double homicide that took place in Sao Bernardo do Campo, Sao Paulo. The accused suspected the victims of stealing a police motorcycle, questioned them, and returned to the neighborhood the following day, when they allegedly killed the two youths by shooting them in the head and leaving another youth for dead. The third victim survived by feigning death and was placed in the witness protection program.

In December 1999, police in the Federal District shot and killed one person and blinded another during a peaceful demonstration. The governor removed certain officials as a result. At year's end, the case against the police officers awaited trial.

There was no information available about an investigation into the February 1999 killing of Antonio Lopes in Natal, Rio Grande do Norte, or in the October 1999 killing of Robelio dos Santos, in Salvador, Bahia.

Amnesty International reported that police death squads still were active in Mato Grosso do Sul. There was no information available about the status of the cases against various police officers accused of participating in death squads in the states of Alagoas and Mato Grosso do Sul in 1997 and 1998.

In April a court retried and convicted former military policeman Otavio Lourenco Gamba, also known as "Rambo," for the murder of Mario Jose Josino in a highly publicized March 1997 extortion and killing incident in Sao Paulo's Favela Naval neighborhood. Gamba's 1998 conviction had been overturned due to lack of evidence. Eight other police officers were convicted of bodily harm and professional negligence. All were serving time in Sao Paulo prisons at year's end.

In April the State Court of Para annulled an August 1999 trial in the city of Belem that acquitted 3 uniformed police officers in command of the unit responsible for the 1996 massacre of 19 landless workers at Eldorado de Carajas in the Amazonian state of Para. Human rights activists considered this decision a major blow against police impunity. A new trial was scheduled for March 2001.

In September the State Court of Rondonia convicted 3 of 12 uniformed policemen and 2 squatters of homicide in the August 1995 killings of 11 squatters and 2 policemen in Corumbiara. The three officers received sentences of 16, 18, and 19 years. The two squatters who were tried were not convicted of murder but of inciting the killings and received 6 and 8 years respectively. Activists criticized the fact that the courts had acquitted 9 of the 12 police officers involved and that the court had not indicted the landowner who was involved directly in the conflict, despite the fact that there was a videotape of the landowner in which he told the police to attack the squatters, whom he called enemy guerrillas.

Of 31 police officers charged with participation in the 1993 massacre of 21 residents of the Vigario Geral neighborhood in Rio de Janeiro, the courts acquitted 19 and convicted 6 officers. At year's end, four officers awaited trial; two died before going to trial.

The trial of retired police Colonel Ubiratan Guimaraes again was delayed. Guimaraes is accused of homicide in the deaths of 111 inmates during an October 1992 riot in Sao Paulo's Carandiru prison. The charges he faces carry a penalty of 1,350 years of imprisonment, although his jail term would be limited to 30 years by the Constitution. Guimaraes would be the first policeman of the rank of colonel to face a civilian jury under the Bicudo law. The other 85 officers who are accused of involvement also await trial. The statute of limitations expired for the charges of torture and beatings, but the officers can be tried for murder. All of the officers, including Guimaraes, were released to await trial.

Death squads in which the police are involved contribute significantly to terrorism



the problem.” The report indicated that death squad activity appeared to be declining except in Bahia.

In August 1999, the Governor of Espirito Santo (the state with the highest rate of homicide), stated that death squad activity involving the police contributed significantly to the level of violence in the state. A state police investigation and a state parliamentary committee of inquiry reported that an informal organization, the “Squad le Cocq” involving police, judicial, and elected authorities including Jose Carlos Gratz, president of the state assembly, was responsible for the vast majority of organized crime in the state.

An investigation instigated by the former president of the supreme court of Acre state and carried out under the auspices of the CDDPH amassed evidence that former Acre military police chief and former state and federal deputy Hildebrando Pascoal headed a crime ring and death squad in that Amazonian state linked to at least 30 murder and torture cases previously suspended by state authorities for lack of evidence. Charges against Pascoal include the kidnapping—with the collusion of military police officers from Piaui—and murder of the suspected killer of Pascoal’s brother, and the kidnapping of the victim’s wife and children in an attempt to locate the victim. A congressional committee of inquiry also established Pascoal’s control of narcotics trafficking within the state. A witness who testified before that committee identified the site of a mass grave in Acre that federal authorities believe Pascoal’s organization used to dispose of at least eight murder victims. Pascoal’s election to the federal Chamber of Deputies in October 1998 conferred on him parliamentary immunity from all prosecution. However, in October 1999, the Chamber voted to remove Pascoal’s immunity and the police subsequently arrested him. In June a federal judge ruled that Pascoal would face a jury trial on account of the capital offense, but no trial date was set. At year’s end, he was in prison and awaited trial on charges of murder; additional charges of narcotics trafficking and electoral violations were pending.

The authorities also failed to conclude the investigation of the May 1996 death squad killings in the Franco da Rocha neighborhood of Sao Paulo, and no charges have been filed in connection with the case. Witnesses identified five uniformed police officers as having arrested four men who were found dead a few hours later. Franco da Rocha is one of Sao Paulo state’s poorest communities and the location of a clandestine dumping site for the victims of death squads. Since 1993 at least 212 bodies have been found there, including 50 victims shot in the head. Progress in the investigation has been hampered by difficulty in identifying bodies whose heads or hands were amputated.

Several persons were killed in conflicts involving the settlement of disputes of land ownership and usage. The MST increased its campaign of legal occupation of lands identified as unproductive, and illegal occupation of land not yet so designated. In addition as a new policy, the MST began occupying public buildings in an effort to embarrass the Government and gain publicity for its cause. MST activists destroyed private property during some occupations. The Catholic Church’s Pastoral Land Commission (CPT), the country’s foremost entity monitoring human rights in rural areas, released in October its report covering rural violence in 1998. The report presents a mixed picture of the overall human rights climate relating to the country’s land conflicts. Killings of landless activists increased to 47 in 1998, compared with 30 in 1997, while attempted murders rose from 37 to 46. Cases of torture rose from 5 to 35, but less serious indicators of aggression fell sharply. The report notes that increased actions by the Government to remove activists from illegal settlements resulted in increased confrontations and destruction of property and homes but also noted that the pace of agrarian reform outstripped new MST occupations, contributing to a less violent climate overall.

In the investigation into the March 1999 killing of the brother of an MST leader in Parana, the police arrested a suspected gunman but later released him. There was no information available about the investigation into the April 1998 death of MST leader Sadi Padillo in Santa Catarina.

The CPT’s report concludes that the climate of impunity enjoyed by landed interests as a result of the “fragile” justice system and the collusion of local political interests continues to encourage serious human rights abuses of landless activists, including murder and torture. However, the report also notes that the tactics of the land reform movement have led to a self-perpetuating cycle in recent years, whereby increased confrontation and tension have led to increased government attention, encouraging in turn more land occupations. In 1999 statistics showed a decrease in violence.

Manuel Souza Neto, a leader of the MST, was killed in October and his body was found in his home. He had been shot, and reports indicate that his neck was slit. Members of the MST reported that landowners had sent death threats to the victim,

and suspect one landlord in his death. However, others note that the victim also was active in politics and that his killer could have been motivated by political goals.

On July 25, a wave of MST actions throughout the country left three dead. In Recife, a police officer shot and killed one protestor. The protestor was part of a group of about 300 activists attempting to occupy a regional bank headquarters. Near Fortaleza ranchers killed another MST member during an occupation attempt. In Para state, an unknown gunman killed an MST activist; six other persons had died in land-related violence in that area since May.

On November 21, MST leader Sebastiao da Maia, also known as Tiozinho, was killed during the occupation of a ranch in Parana. The authorities claimed that Maia was killed in a shootout during the occupation, but the MST claimed that he died in an ambush by hired gunmen. The authorities did not charge anyone with murder in the case but arrested five security guards on firearms charges. According to the Catholic Church's Pastoral Land Commission, Maia's killing was the tenth killing of a rural activist during the year.

Also on November 21, a gunman killed Jose Dutra da Costa, a rural activist in the state of Para. Police arrested the gunman the same day and suggested that Costa may have been killed on the orders of large landowners in the region. According to one source, for 2 years Costa had been on a death list of 18 activists.

On December 19, federal police seized a large cache of arms at a ranch in Pontal do Paranapanema, east of Sao Paulo, in the home of a member of a landowner's group. In 1997 the ranch had been the scene of an armed conflict between the landowner and the MST, in which eight MST members were shot. The landowner was acquitted of charges of homicide in that case, but faced arms charges after the arms seizure.

In June in the state of Para, Jeronimo Alves de Amorim was convicted of ordering the 1991 murder of the head of a local workers' union, Expedito Ribiero de Souza. Human rights activists noted that this conviction is the first time that a landowner has been held liable for such a crime. The court sentenced Alves de Amorim to 19 years in a maximum security prison (see Section 6.a.).

In an April retrial, a jury acquitted MST leader Jose Rainha for the 1989 killings of landowner Jose Machado Neto and police officer Sergio Narciso da Silva. In 1997 a jury in the small, rural town of Pedro Canario, Espirito Santo, sentenced Rainha to 26 years for the killing. The jury convicted Rainha even though the prosecution presented no material evidence and witnesses testified to Rainha's presence 1,500 miles away from the scene of the crime. Since Rainha's sentence exceeded 20 years, he automatically was entitled to a retrial. Police investigator Celso Jose da Cruz, who appealed his 1997 conviction (and sentence of 516 years' imprisonment) for involvement in these killings, was convicted in a retrial. There was no information available regarding the trials of the 29 policemen charged as codefendants in the killings.

According to human rights activists monitoring the case, proceedings remain stalled against the former mayor of Rio Maria, in the state of Para, who was charged with the 1985 murder of Joao Canuto, the first president of the rural workers' union in Rio Maria. Canuto's daughter, Luzia Canuto, received death threats as a result of the case. In 1998 the Inter-American Commission on Human Rights (IACHR) criticized the Federal Government for failing to prosecute the crime.

The four suspects charged with manslaughter in the burning death of Pataxo indigenous leader Galdino Jesus dos Santos in Brasilia still awaited trial at year's end. In 1998 an appellate court upheld a 1997 court decision to prosecute for manslaughter rather than murder. In 1999 a superior court ruled that a jury would try the defendants, and the defense appealed the decision. The appeal was denied in April, but a new appeal was filed, delaying the trial again. The accused remain in prison. Dos Santos died in April 1997 after the suspects set him on fire while he was asleep on a public bench.

Vigilante groups and death squads, which often included police officials, also were responsible for killings.

The National Secretariat for Human Rights sponsors training programs in human rights, carried out in cooperation with federal and state entities and national and international organizations, in most states. The Secretariat administers a human rights training program for policemen in cooperation with Amnesty International (AI) in 10 states. Human rights groups maintain that the effect of these programs has been limited, at best. However, human rights activists in many states reported willingness of police authorities to address their concerns and to deal with problems brought to their attention.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

In 1995 Congress passed legislation that recognized and assigned government responsibility for the deaths of political activists who “disappeared” during the military regime while in the custody of public officials, and obligated the Government to pay indemnities of between \$100,000 and \$150,000 (200,000 to 300,000 reais) to each of the families. In 1997 President Cardoso signed a decree awarding reparations to the families of 43 such persons. As of March 1999, 265 persons had received indemnities out of 366 requests. A commission created by the law continued to evaluate requests for, and authorize payment of, indemnities.

No further progress was made during the year in investigating the mass grave found in the Perus Cemetery in Sao Paulo on September 4, 1990. Over the last 10 years, the authorities were able to identify the bodies of 6 persons from the 1,500 bones found. Human rights groups state that these persons were opponents of the military regime. However, attempts to identify additional bodies have stopped, and no efforts were made to find those responsible for the deaths.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution and a 1997 law prohibit torture and provide severe legal penalties for its use; however, there are frequent credible reports that police torture and beat criminal suspects to extract information, confessions, or money. Victims generally are poor, uneducated about their rights, and afraid to come forward due to fear of reprisals. Prison officials often tortured and beat inmates.

As in the cases of extrajudicial killings, the police benefit from a high level of impunity. A 1999 investigation by prosecutors into Sao Paulo’s special courts for uniformed police uncovered 1,107 “missing” and “delayed” cases against uniformed police charged with crimes against civilians that include murder and torture. A newspaper that had access to 300 cases under investigation found 100 murder charges among them, some dating back up to 12 years. Equally long delays have allowed many cases of torture and lesser charges to expire due to statutes of limitations. Although some policemen are expected face criminal charges as a result of this investigation, human rights officials called the findings “horrificing.”

The Sao Paulo state police ombudsman received 481 complaints through the first 9 months of the year alleging torture, abuse, mistreatment, or neglect (negligence accounts for 132 of these complaints). This represented a slight increase from the same period in 1999, when the ombudsman received 467 such complaints. The ombudsman’s office believes that many cases are not reported.

U.N. Special Rapporteur for Torture Rodley visited the country for 23 days in August and September. While his final report had not been issued before year’s end, Rodley described conditions in some prisons as grotesque and stated that the Congress promotes impunity of police agents by failing to provide proper oversight and by giving them excessive powers. Rodley told the Federal Chamber of Deputies Commission on Human Rights that the authorities routinely subject suspects and prisoners to illegal detention, subhuman conditions and torture, and rarely are punished for the abuses. He described instances during his visit in which prisoners were beaten after talking with him, where torture implements were discovered in a prison, and where he had to take one prisoner to the hospital to recover from a beating. He also told the Commission that officials in one prison promised to discipline one corrections officer, but did not do so. He called the situation worse than he had imagined and presumed that his experience represented only a fraction of the problem.

In 1999 the Globo newspaper in Rio de Janeiro published the results of an investigation into the allegations of torture by state police. The police opened a total of 53 investigations regarding complaints of torture against police authorities between 1997, when the torture law came into effect, and 1999. Only one of the inquiries, which had been suspended, officially had been concluded. The report identified several patterns, including the use of electric shock, beatings with iron bars, and sexual abuse including sodomy with foreign objects. The report noted that police classified such incidents as abuse of authority and physical assault, offenses that are far less serious than torture. As a result of the report, the state government ordered an independent review of the 53 cases, and the Federal Government established a task force to review Rio de Janeiro state police practices.

In 1999 Sao Paulo officials investigated allegations that investigative police of the 26th state police district humiliated and beat prisoners after inmates secretly audiotaped 20 police officers beating them and threatening to kill them. The authorities responded by creating a special service to receive complaints of torture committed by investigative and uniformed police. Persons wishing to make a grievance about police activity or offer suggestions contacted the police ombudsman over 8,000 times during the first 9 months of the year.

On October 18, Amnesty International released a special report on torture that included five cases in the country. One was that of “Jose” (not his real name), a

juvenile in the state of Para who was beaten so severely by police that he has needed psychiatric treatment ever since. Jose's mother complained about the beating to the local public prosecutor, who referred the case to the police chief at the same station where the beating occurred. Other cases were cited in Paraiba, Sao Paulo, and Pernambuco.

On October 19, the authorities arrested two civil guards in Sao Paulo and accused them of the sexually assault of three teenage girls caught trespassing in a cemetery. Police authorities began an internal investigation into the matter.

On October 24, Federal Highway Police arrested a Rio state policeman and accused him of having been a member of a gang that specialized in robbing trucks at gunpoint along the highways. Police were investigating the possible involvement of other officials in the activities of the gang.

In late November, several former prisoners who had been held in an Air Force prison in Rio de Janeiro made public their allegations of having been tortured during their time in prison. The allegations included accusations of beatings and electric shocks. The Federal Police announced that it would begin an investigation into the reports. The allegations were also investigated in early December by the Human Rights Commission of the Chamber of Deputies.

On December 14, two policemen severely beat a shoe shiner, Rangel Bezerra de Lima, in Ceilandia, Federal District. The reason given by the police during the attack was that they had experienced a "bad day." The case got the attention of the Human Rights Division of the Ministry of Foreign Relations, which assisted Rangel in filing a complaint against the perpetrators, accusing the police of torture.

The case of Otavio dos Santos Filho, who allegedly died as a result of torture at Sao Paulo's Depatri jail in 1999, was archived without any resolution. No explanation for closing the case was been made public by year's end.

Police authorities took no action regarding 107 cases of torture and beating that took place in the Depatri jail in February 1998 and were confirmed by the Police Medical Institute. Prosecutors and human rights groups continued to push for a trial of the guards who are accused in the case.

In 1997 civil policemen in Belem, Para state, under the command of Captain Clovis Martins de Miranda Filho, accosted Hildebrando Silva de Freitas, who apparently had failed to pay a bribe for a liquor license for his bar. At Captain de Miranda's direction, as many as 10 police officers severely beat and sexually abused de Freitas. In 1998 an internal police investigation concluded that de Freitas had suffered severe physical injury and did not contest the testimony of the witnesses who corroborated his account, but declared there was no connection between his injuries and the officers who had confronted him. At year's end, the case was under review by the Para state prosecutors' office. De Miranda has brought a defamation suit against the state ombudsman for public security in Para for statements that she allegedly made to the press regarding the case. The state has declined to bear the costs of the ombudsman's defense.

Police violence against homosexuals continued (see Section 5).

There continue to be numerous credible reports of state police officials' involvement in crime, including revenge killings and intimidation and killing of witnesses involved in testifying against police officials.

The Sao Paulo state police ombudsman received 218 complaints in the first 9 months of the year alleging corruption, illicit enrichment, swindling, embezzlement, or participation in drug trafficking on the part of policemen.

The International Committee of the Red Cross (ICRC) continued its human rights training courses for high-ranking state military police officers at the Federal Police Academy in Brasilia. A total of 860 military police have been trained in basic techniques, including the apprehension and interrogation of criminal suspects without recourse to excessive or unnecessary force. The program was funded through December, and the ICRC office expected authorization to proceed for 2 to 3 more years. The Center for the Study of Violence at the University of Sao Paulo is expected to review the results. The military police in the states of Amapa, Paraiba, Rondonia, and Sao Paulo already have incorporated the ICRC program into their general police training program.

Over one-fifth of Sao Paulo's uniformed police officers have received some kind of community police training under the state's community policing initiative. Begun in December 1997, the program is expected to take 10 years to implement fully. Under the program, high-ranking police officials meet with citizens' consultative groups weekly. The uniformed police also instituted a policy of "recycling" policemen involved in shootings, removing them from patrols for 6 months and offering them counseling.

Prison conditions range from poor to extremely harsh. Severe overcrowding was prevalent, especially in larger cities. According to Ministry of Justice figures for

1998, about 85 percent of the prison population was kept in substandard conditions. The situation was most critical in the states with the largest prison populations, including Sao Paulo, Rio de Janeiro, Bahia, Rio Grande do Sul, and Pernambuco. Most penal authorities in these states do not have the resources to separate minor offenders from adults and petty offenders from violent criminals. Prison riots were frequent occurrences. Discipline is difficult to maintain under such conditions, and prison officials often resort to inhuman treatment, including torture.

AI stated that the prison system was "in crisis" in a comprehensive report on prisons released in June 1999. The report was based on 33 visits to prisons in 10 states. In December 1998, Human Rights Watch (HRW) also issued a comprehensive report entitled "Behind Bars in Brazil," based on an intensive review of prison conditions in eight states. Both reports meticulously detail inhuman conditions and systematic and wide ranging abuses of human rights throughout the prison system. Among the most serious charges are the commonplace undocumented and uninvestigated deaths of inmates at the hands of authorities or other prisoners, and the routine use of torture against inmates by both guards and police officers.

Poor working conditions for prison guards aggravate substandard prison conditions and encourage corruption. The director of Sao Paulo's Carandiru prison (the largest in the country) told representatives from AI that many cases of torture and use of excessive force result in part from employees' working conditions. An investigation of the more than 1,100 employees of Sao Paulo's prison at the end of 1998 showed that 241 had criminal records themselves. The majority of the charges against them were for crimes committed while working at the prison and ranged from drug trafficking and threats to assisting in escapes. The state secretary of penitentiary administration was aware of the guards' criminal pasts and allowed them to continue working. At year's end, prison officials stated that investigations were continuing and that they had discharged some employees.

In September the director of the maximum security prison Bangu 1 in Rio de Janeiro, who had attempted to clean up corruption and violence at the institution, was murdered—probably on orders from incarcerated drug traffickers, corrupt prison guards, or police officers, according to state security officials.

Prisons do not provide adequate protection against violence inflicted by inmates on each other.

On October 10, news media reported a riot in a Parana state prison in Piraquara, where prisoners armed with pistols and a grenade took seven guards hostage. According to news sources, this was the second riot there in 4 months. Another riot occurred on October 10 in Contagem, a district of Belo Horizonte, in which one policeman and one prisoner were injured. Press reports stated that it was the third riot there during the year, and that the cause was overcrowding.

On October 22, prisoners took 66 persons hostage during a riot in Penitenciaria Nelson Hungria, near Belo Horizonte. The prisoners were armed with pistols and knives. The riot ended with a promise by the authorities to transfer some of the inmates to other facilities.

On October 23, a riot broke out in Penitenciaria 2 de Itapetininga, in Sao Paulo State. At least 500 prisoners were involved; they took 14 guards as hostages. The riot lasted only 9 hours, but three prisoners died from fires set during the incident. On October 24, a gang fight inside Carandiru Prison in Sao Paulo killed two prisoners and injured another five. According to the authorities, the gangs were fighting over control of the prison. Prison authorities responded by transferring prisoners identified as most dangerous gang members to other facilities.

On or about November 5, a riot broke out in the Casa de Detencao Jose Mario Alves da Silva, in Porto Velho, Rondonia. Three prisoners were killed (apparently by other prisoners) and another 17 were injured. A guard also was injured. The revolt lasted 79 hours.

Armed with knives, razor blades, and pistols, prisoners in Sao Paulo's high-security Taubate penitentiary rioted December 17 and 18, resulting in the deaths of nine inmates. The riot was sparked by prisoner demands for transfer to lower-security facilities and was followed by an unsuccessful escape attempt. After the riot was quelled, the authorities transferred 25 prisoners to other facilities.

Prisoners also are subject to extremely poor health conditions. Scabies and tuberculosis, diseases not common in the general population, are widespread in Sao Paulo prisons. The Ministry of Justice estimates that 10 to 20 percent of the national prison population is HIV positive. Denial of first aid and other medical care sometimes is used as a form of punishment. According to the Sao Paulo state secretary of prison administration, 1,923 prisoners in Sao Paulo's prisons are infected with tuberculosis, 178 have leprosy, 122 are infected with hepatitis, 457 are infected with HIV, and over 3,800 suffer from full-blown AIDS. AI reports that, while underused, the

Sao Paulo state hospital for prisoners with AIDS is cleaner and better organized than most prison hospitals.

Overcrowding in Sao Paulo's prisons and police detention centers, which hold about 43 percent of the country's prison population, is a critical human rights problem. Although state prison capacity has risen by 50 percent with the opening of 21 new prisons since 1998, rising crime and inflexible sentencing has meant that facilities remain overcrowded. The prison population increased by 7,000 persons in the first 8 months of the year.

The state of Sao Paulo has approximately 92,000 prisoners. Only about 59,000 these prisoners are in the state penitentiary system. Due to lack of space, more than 32,000 prisoners, most of whom already have been convicted and should be in state penitentiaries, remain in temporary holding facilities in police stations. The state penitentiary system has an over-capacity rate of about 18 percent.

Sao Paulo prison authorities openly admit that overcrowding has led to abysmal conditions and violent riots in Sao Paulo prisons. There were 25 riots during the year in Sao Paulo prisons, which resulted in the deaths of 23 prisoners. A riot in Parana state on June 3–6 left one prisoner dead and three injured. Another riot occurred on July 12, although no one was hurt in that incident. Among the prisoners' complaints were overcrowding, the slow parole process, and lack of conjugal visits.

Overcrowding and lack of adequate security also lead to a number of escapes and carefully planned jail and prison breaks. On September 19, in Sao Paulo state, armed men broke into 2 prisons and 1 jail and freed 206 prisoners. At another break at Sumare prison, also in Sao Paulo state, 7 men stormed the complex and freed 92 of the 100 prisoners. Numerous breaks such as these occurred throughout the year, and very few prisoners were recaptured. In at least one case seven guards were held hostage during the escape.

Torture and mistreatment of prisoners by prison officials is also a serious concern. Investigations began in the torture and beatings of 20 prisoners in Sao Paulo's Sorocaba prison. The prisoners and their relatives charge that on July 28, the prisoners were forced to walk through two rows of police officers (armed with truncheons and sticks) who beat the prisoners as they walked. The prisoners were then divided into groups of five and each group locked into a solitary confinement cell designed to hold one person. In October a public prosecutor charged 20 policemen and 5 penitentiary guards with participating in the torture of inmates.

The authorities opened an investigation in the death of Nilson Saldinia, who died in February in the 50th district jail in Sao Paulo's Itaim Paulista neighborhood. Human rights groups claim that he died as a result of torture after police beat him and other prisoners with bars and metal rods and applied electric shocks to them (see Section 1.a.).

An investigation also has been opened into the allegation of a June 3 torture incident involving over 100 prisoners in Sao Paulo state's prison facility in the city of Americana. According to Justica Global, a local human rights group, prisoners were forced to pass through a "corridor" formed by military policemen from the Special Operations Unit while the policemen beat the prisoners with iron bars, truncheons, and whips. According to the organization, one prisoner's left arm was broken and another prisoner, Wilson Pereira da Silva, was beaten severely and then police threw a mixture of vinegar, water, and salt on his wounds. The director of the facility was fired shortly after the accusations surfaced.

Sao Paulo prison officials have taken steps to improve the quality of the prison guard force. Since 1998 new hires are required to have a high school diploma and to take human rights courses. Sao Paulo prison authorities also are attempting to improve conditions by building more prisons (six small ones were built during the year), by improving training of prison personnel, and by creating committees of community leaders to monitor prison conditions. However, they emphasize that the most serious problem—overcrowding—can not be resolved in the short term as it is simply impossible to build as fast as the prison population is growing.

The states of Rio de Janeiro and Sao Paulo provide separate prison facilities for women, but generally only in houses of detention or actual prisons, where female inmates are separated from men. However, in Rio de Janeiro state there are only two police districts in which women in lockup are held in exclusive short-term jail facilities. Women's facilities in Sao Paulo's penitentiary system are even more overcrowded than those for men. Facilities built to accommodate 600 female inmates hold 1,055. The state's prison expansion program did not include provisions for additional space for women. There are no facilities that are exclusively female—including inmates, guards, and warden. With male officers in women's prisons, opportunities for abuse and extortion of sexual favors are abundant.

Sao Paulo's juvenile detention centers (FEBEM) continue to be plagued by overcrowding, poor conditions, riots, and accusations of torture. The authorities com-

pleted an investigation into the 1999 riots at the FEBEM facility at Franco da Rocha and fired the director as a result. Human rights NGO's expressed regret that this was the only management-level employee discharged by year's end.

Since the extremely violent Tatuape complex riot in October 1999, human rights groups estimate that FEBEM employees have tortured or beaten at least 700 FEBEM inmates. The two most common forms of torture cited by these groups are "repique" and "recepcao." Repique is used after attempted escapes or rebellions, when the employees gather the inmates and beat them with iron bars and sticks. Recepcao occurs when adolescents are transferred to different facilities and are greeted by two rows of FEBEM guards who kick, beat, and scream at the prisoners as they pass between them to teach them the rules of discipline.

The Public Ministry was investigating 87 cases of torture and mistreatment in FEBEM facilities. Officials were considering for investigation another 52 complaints of mistreatment. The majority of the investigations and complaints involve the Tatuape complex.

Three cases of torture occurred in FEBEM facilities in June and July, involving the so-called ninjas, a group of FEBEM guards who roam FEBEM complexes at night, beating inmates at random. Actions by this group were registered at the Cadeiao de Pinheiros, Tatuape, and Franco da Rocha facilities.

Human rights organizations also accuse the Sao Paulo state government of holding 900 of the 4000 FEBEM inmates in an "irregular" state (in violation of a federal statute) by putting them in adult prison facilities, in violation of the International Convention on the Rights of the Child, to which the Government is a signatory. The transfer of youth to adult prison facilities began in August 1999 and intensified after the riots in November of that year. Injunctions that would force FEBEM officials to move the youth to juvenile facilities consistently have been reversed by the Sao Paulo supreme court, citing the fact that there is no other place to put the inmates.

Government action has proved ineffective in improving the conditions in FEBEM. After the November 1999 riots, Sao Paulo Governor Mario Covas promised to build 20 new facilities and fire all FEBEM employees responsible for torture. To date 4 of the 20 facilities have been built, but they have failed to resolve overcrowding. Moreover, two of these new facilities were sites of later riots, leading employees to complain that the inmates had been transferred before the facilities were ready and able to provide basic care or recreational or educational activities. Some employees accused of mistreatment have been fired, but human rights groups claim that only a small portion of those responsible have been dismissed.

There is no evidence that conditions have improved in the 14 months since riots began. A report put together by several human rights groups also notes that FEBEM officials demand 5 days' notice for visits by human rights groups, inhibiting the independent analysis of conditions within the FEBEM complexes.

In August local human rights NGO's delivered a report to Nigel Rodley, the U.N. Special Rapporteur for Torture about the situation in FEBEM. Rodley toured the facilities and reported finding instruments of torture.

In November 1998, President Cardoso approved a law authorizing alternative sentencing for nonviolent offenders aimed, in part, at easing prison overcrowding. In its 1999 prison report, AI noted that the states of Rio Grande do Sul and Mato Grosso do Sul have imposed noncustodial sentences effectively, but points out that in states such as Rio de Janeiro alternative sentencing has not been implemented effectively. There was minimal improvement during the year on the issue of alternative sentencing. In May the Government approved legislation that provided new funds for prisons and options for alternative sentencing. In September Justice Minister Jose Gregori inaugurated a National Center of Support and Accompaniment for Alternative Sentences to educate the judiciary to apply alternatives such as community service to convicts sentenced to less than 4 years' incarceration to reduce prison overcrowding.

It is government policy to permit prison visits by independent human rights monitors, and state prison authorities generally observe this policy in practice. Federal officials in the Ministry of Justice responsible for penal matters offered full cooperation to AI, which reported no significant problems in gaining access to state-run prison facilities. U.N. Special Rapporteur Rodley was given full access during his 3-week fact-finding mission in August and September. By contrast, HRW noted in preparing its prison report in 1998 that gaining access to prisons was "surprisingly difficult," and that barriers ranged from outright denial of access to the use of procedural delays. Only three states of the eight investigated—Amazonas, the Federal District, and Rio Grande do Norte—had made their prisons completely accessible to Human Rights Watch.

*d. Arbitrary Arrest, Detention, or Exile.*—The law prohibits arbitrary arrest and detention, and the Government generally observes this prohibition; however, police continued at times to arrest and detain persons arbitrarily. The Constitution limits arrests to those caught in the act of committing a crime or those arrested by order of a judicial authority. The authorities generally respect the constitutional provision for a judicial determination of the legality of detention, although many convicted inmates are detained beyond their sentences due to poor record keeping. The law permits provisional detention for up to 5 days under specified conditions during a police investigation, but a judge may extend this period. However, groups that work with street children claim that the police sometimes detain street youths illegally without a judicial order or hold them incommunicado.

Human rights monitors allege that civil and uniformed police regularly detain persons illegally to extort money or other favors, citing the Favela Naval incident of 1997 as the most notorious example (see Section 1.a.).

The U.N. Special Rapporteur on Torture made an inquiry into the death of Anderson Carlos Crispiniano, who alleged himself to be the victim of police torture in Rio de Janeiro. In June Crispiniano was asleep at his home when a group of armed men identifying themselves as policemen forced their way in and arrested him without a warrant. They removed Crispiniano from his home and later telephoned to say that he was being held hostage for ransom. He later was released, badly beaten and partly paralyzed, and died after 15 days in the hospital.

HRW noted that police in the state of Parana arrested 173 persons, mostly without probable cause, during forced evictions carried out during the year.

According to an AI press release, police detained 141 persons in an attempt to prevent protesters from disrupting the 500th anniversary celebration in Porto Seguro on April 22. Human rights activists protested the police action, calling the detentions unjustified and out of proportion to any perceived threat (see Sections 2.b. and 5). The authorities later released the temporarily detained demonstrators without filing charges.

The Government does not use forced exile.

*e. Denial of Fair Public Trial.*—The judiciary is an independent branch of government; however, it is inefficient, subject to political and economic influence, and plagued by problems relating to lack of resources and training of officials. In many instances, lower-income, less educated citizens make limited use of the appeals process that otherwise might ensure the right to fair trial.

The judicial system, with the Federal Supreme Court at its apex, includes courts of first instance and appeals courts. States organize their own judicial systems but must adhere to the basic principles in the Constitution. Specialized courts deal with police, labor, elections, juveniles, and family matters.

Defendants in criminal cases arrested in the act of committing a crime must be charged within 30 days of their arrest, depending on the crime. Other defendants must be charged within 45 days, although this period can be extended. Defendants for all but the most serious crimes have the right to a bail hearing. Based on the police investigation leading to the formal charges, prosecutors prepare an indictment for the review of a judge, who determines if the indictment meets the legal requirements to bring the accused to trial. A judge and jury try persons accused of capital crimes, attempted homicide, or more serious charges. A judge tries lesser crimes. Defendants have the right to appeal all convictions to state superior courts. They further have the right to appeal state court decisions to both the Federal Supreme Court on constitutional grounds and to the Federal superior court to contest whether a decision was inconsistent with the decision of a court in another state or infringes on federal law. All defendants sentenced to 20 years in prison or more have the automatic right to a retrial in the same court.

Special police courts have jurisdiction over state uniformed police (except when charged with intentional homicide); the record of these courts shows that conviction is the exception rather than the rule. These courts (which are separate from the courts-martial of the armed forces, except for the final appeals court) are composed of four ranking state uniformed police officials and one civilian judge. With too few judges for the caseload, there are backlogs, and human rights groups note a lack of willingness by police to investigate fellow officers.

A 1996 law gives ordinary courts jurisdiction over cases in which uniformed police officers are accused of intentional homicide against civilians. However, except for the most egregious cases, the internal police investigation determines if the homicide was intentional, and the police tribunal decides whether to forward a case to a civil court for trial. As a result, few cases are referred to the civil courts. It takes 8 years to reach a definitive decision in the average case. At the appellate court level, a large backlog of cases hinders the court's ability to ensure fair and expeditious trials.



Defendants are entitled to counsel and must be made aware fully of the charges against them. According to the Ministry of Justice, approximately 85 percent of prisoners cannot afford an attorney. In such cases, the court must provide one at public expense; courts are supposed to appoint private attorneys to represent poor defendants when public defenders are unavailable, but often no effective defense is provided. Juries decide only cases of willful crimes against life, including crimes by police; judges try all others.

The right to a fair public trial as provided by law generally is respected in practice, although in some areas, particularly rural areas, the judiciary generally is less capable and more subject to influence. Similarly local police often are less dutiful in investigating, prosecutors are reluctant to initiate proceedings, and judges find reasons to delay when cases involve gunmen contracted by landowners to eliminate squatters or rural union activists.

Low pay, combined with exacting competitive examinations that in some years eliminate 90 percent of the applicants, make it difficult to fill vacancies on the bench. The system requires that a trial be held within a set period of time from the date of the crime. However, due to the backlog, old cases frequently are dismissed. According to a former judge, this practice encourages corrupt judges to delay certain cases purposely, so that they can be dismissed. Lawyers often drag out cases as long as possible in the hope that an appeals court might render a favorable opinion and because they are paid according to the amount of time that they spend on a case.

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution provides for freedom from arbitrary intrusion into the home. Wiretaps authorized by judicial authority are permitted. The law regulating the conditions under which wiretaps may be used appears to strike a fair balance between giving the police an effective law enforcement tool and protecting the civil liberties of citizens. The inviolability of private correspondence is respected.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution prohibits all forms of censorship and provides for freedom of speech and a free press, and the authorities respect these rights in practice.

Newspaper, magazines, and a growing number of on-line electronic publications, which are privately owned, vigorously report and comment on government performance. Both the print and broadcast media routinely discuss controversial social and political issues and engage in investigative reporting. Most radio and television stations are privately owned; however, the Government has licensing authority, and politicians frequently obtain licenses. Current or former congressional representatives, some of whom are or were members of the committee that oversees communications, own many television and radio stations, as well as local newspapers. It is difficult to determine how many media outlets are controlled indirectly by politicians, since concessions often are registered in the names of family members or friends linked to them. In addition the Government regularly approves transfers of concessions already granted to other individuals with little oversight.

The penalty for libel under the 1967 Press Law is a prison term. It is considered extreme by judges and rarely is imposed. The National Newspaper Association (ANJ) continued to press for an updated press law, noting that the current law dates from time of the military regime. Newspaper owners throughout the country have complained about judges who have imposed huge fines and jail terms against newspapers for “moral damage” that appear aimed at crippling news organizations. According to the ANJ annual report issued in September, if the new law does not establish criteria for calculating maximum fines for libel, there is a risk of restrictions to freedom of the press.

In December 1999, the Lower House of the Congress approved a press gag law (Lei Mordaca) that would penalize prosecutors, judges and government attorneys for revealing information about ongoing cases to the press. The ANJ, together with the Inter-American Press Association, mounted a public campaign against the law and Congress effectively stalled the legislation. The journalists argued that such a gag law would represent a prior restraint on freedom of speech, in violation of the Constitution.

Complex electoral campaign laws regulate the broadcast media and prescribe complicated arrangements to apportion the free use of commercial radio and television broadcast time granted to political parties during an election campaign. The short periods for rulings and non-appeal provisions of the regulations are designed to enforce discipline and ensure that remedies are applied in a timely manner. Media

and free speech advocates generally accept the manner in which the campaign laws are enforced.

Foreign publications are distributed widely; prior review of films, plays, and radio and television programming is used only to determine a suitable viewing age.

The National Federation of Journalists (FENAJ) and the ANJ have documented a number of violent attacks, including killings and threats against journalists. The September ANJ report, which covered the period August 1999 through July, listed 8 cases of physical aggression against 12 journalists, including a murder attempt upon a newspaper reporter in Bauru, Sao Paulo. It also described five death threats against journalists. Although no new murder cases were reported during the year, the ANJ report noted that seven journalists have been murdered since 1995 and none of the crimes have been solved. The police said that charges have been brought in four of the cases, and that they could not gather sufficient evidence in the other three. The ANJ further stated that impunity for crimes committed against journalists and inappropriate and inconsistent application of the Press Law are impediments to the functioning of the free press.

The ANJ alleged that on February 17, two uniformed police officers attacked Juarez Rodrigues, from the newspaper Estado de Minas. The officers also confiscated Rodrigues' working equipment, his cellular phone, and demanded the roll of film in which Rodrigues had recorded a police action. Police Commander Augusto Severo later visited the newspaper's director to apologize for the actions against the reporter and to promise to pay for any material damage to the equipment. Severo also stated that a military inquiry had been initiated to punish the officers responsible.

The ANJ also alleged that, on February 22, two journalists and a driver from the newspaper O Povo de Fortaleza were beaten and tortured on the orders of the mayor of a small town, Hidrolandia, in which they were investigating a story. Although criticized and forced to leave his political party, the mayor remained in office.

According to the Inter-American Press Association (SIP), on March 3, journalist Ricardo Noblat, managing editor of the newspaper Correio Braziliense of Brasilia, alleged that two of his sons had been attacked and that he had been receiving anonymous telephone threats since 1998. He stated that these actions were political persecution because of his professional activity. On June 27, the CDDPH gave the Justice Minister a preliminary report about the attacks on Noblat's sons. Although it was only preliminary, the report by the Justice Ministry concluded that the attacks were political.

Also according to the SIP, on March 8, a group of masked, armed men kidnaped journalist Klester Cavalcanti, correspondent of the magazine Veja in Belem, capital of Para state. The men pushed the journalist into a car, drove him to a forest with his head inside a black plastic bag, tied him to a tree in an isolated spot, pointed a revolver at him, and threatened him with death if he published a report on an illegal land sale.

Academic freedom is respected.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for the right to assemble peacefully, and the Government respects this right in practice. Permits are not required for outdoor political or labor meetings, and such meetings occur frequently.

Police used force to disperse demonstrators on several occasions during the year, resulting in serious injuries and at least one death (see Sections 1.a. and 1.c.). In May MST protesters heading to Parana state's capital of Curitiba were stopped by police 20 kilometers outside the city. They said that they were planning to protest peacefully in front of government buildings. However, the same week, MST groups had invaded government buildings in several other capital cities. Parana state police say that they acted to prevent the same occurrence in their state. The confrontation between police and protesters which took place when the bus was stopped resulted in one death (see Section 1.a.). Human Rights Watch reported that police killed another demonstrator—Jose Marlucio da Silva—in Recife on July 25 during a similar protest, but no further information was available about this case.

Between May and October, MST protests increased, culminating in promises of about \$2 billion (4 billion reais) in federal government money for agrarian reform. Protests in the capital, Brasilia, united large numbers of protesters. In August joint protests by the MST and Contag (Confederacao Nacional de Trabalhadores na Agricultura) drew over 12,000 participants. Demonstrations in Brasilia were usually concurrent with smaller, local protests and invasions, of anywhere between 200 and 5,000 landless activists. Many protests occurred without incident, with notable exceptions. The MST's new method of forcibly invading public buildings is an example

of increasing aggressiveness on the part of the movement. The movement also invaded President Cardoso's family farm.

However, the number of land invasions decreased sharply during the year. According to INCRA (the government agency charged with implementing land reform), there were only 226 invasions by landless militants through November, compared with 438 in 1999 and 427 in 1998, indicating that the large amount of land that has been distributed by the Federal Government may have had some effect in decreasing landless movement activity. The CPT noted that the number of conflicts between landless movement members, landowners, and police increased over the last 3 years, but that the number of resulting deaths declined from 47 in 1998 to 24 in 1999. The total number of MST activists killed during the year was not yet available.

In April a group of indigenous leaders organized a march in protest of the ceremonies to mark the 500-year anniversary of Portuguese arrival; however, police using riot gear prevented the protesters from entering the main square, and fired rubber bullets into the crowd. Human rights observers criticized the police for injuring over 30 persons, arresting over 100 others, and limiting free assembly and lawful protests. The then-president of FUNAI, Carlos Frederico Mares, resigned in protest over this incident.

The Constitution provides for freedom of association, and the Government respects this right in practice.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government respects this right in practice. There is no favored or state religion. All faiths are free to establish places of worship, train clergy, and proselytize, although the Government controls entry into indigenous lands.

*d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.*—There are no restrictions on movement, except entry into protected indigenous areas, nor are there any restrictions on emigration or return. However, a parent is not allowed to leave the country with children under the age of 18 without the permission of the other parent, whether or not the marriage still is in effect.

In 1997 the Government passed legislation with provisions for asylum and refugee status intended to conform to the principles of the 1951 U. N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Government provides first asylum and cooperates with the U.N. High Commission for Refugees (UNHCR) and other humanitarian organizations in assisting refugees. There were 2,632 refugees in the country, mostly from Angola and other African countries, but also including persons from Iran, Bosnia, and Kosovo. During the year, a total of 445 persons were granted refugee status, out of a total of 590 requests.

There were no reports of the forced return of persons to a country where they feared persecution.

### *Section 3. Respect for Political Rights: The Right of Citizens to Change their Government*

The Constitution provides citizens with the right to change their government peacefully, and citizens exercise this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. Voting is secret and mandatory for all literate citizens aged 18 to 70, except for military conscripts who may not vote. It is voluntary for minors from 16 to 18 years of age, for the illiterate, and for those age 70 and over.

Women have full political rights under the Constitution and are increasingly active in politics and government; however, they are underrepresented in both fields. Cultural, institutional, and financial barriers continue to limit women's participation in political life. The number of female candidates for office in the 1998 national elections roughly doubled, compared with the number in 1994, according to statistics released by the Supreme Electoral Court (TSE). Women constituted approximately 12 percent of the total candidates. However, their representation in the national Congress decreased from 7.6 percent to 6.1 percent after the 1998 elections; 29 women were elected to the 513-seat Chamber of Deputies, and 5 to the 81-seat Senate. In August the TSE reported that for the first time, a majority of registered voters were female (50.45 percent). The TSE also reported that there were over 70,000 female candidates for the nationwide municipal elections. At 18.3 percent of the total number of candidates, this was a 40 percent increase from the last municipal elections in 1996. There were no female members of Cabinet. In December the first woman assumed her seat on the country's highest court, the Supreme Federal Tribunal.

Diverse ethnic and racial groups, including indigenous persons, while free to participate politically, are not represented in government and politics in proportion to their numbers in the general population.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of local and national human rights groups operate without government restriction, investigating and publishing their findings on human rights cases. Federal officials generally are cooperative and responsive to their views. Federal and state officials, due to insufficient resources, in many instances actively solicit the aid and cooperation of NGO's in addressing human rights problems. However, on occasion human rights monitors are threatened and harassed due to their efforts to identify and take action against human rights abusers, especially members of the state police forces (see Section 1.a.).

AI reported in February that its office in Sao Paulo received a bomb threat from an extreme right group (see Section 5). The police investigated the threats and no bomb was found. AI noted that gay rights groups had received similar threats, that a member of their staff was attacked during the year, and that police had not acted to protect their staff or other human rights activists from violent attacks. The head of the AI office continued to receive threats by mail and phone. As a result, AI closed their Sao Paulo office and moved to Porto Alegre. At year's end, the Sao Paulo State Civil police still were investigating. The AI office in Porto Alegre also continued to receive threats, which the Rio Grande do Sul police were investigating.

Henri des Roziers, a Dominican monk, attorney, and human rights activist in Xinguara, Para, received several death threats during the year for his assistance to victims of violence in the region and his direct involvement in criticizing cases of torture, police abuse, and forced labor. Des Roziers, along with the Ministry of Labor's Office to Combat Forced Labor, was instrumental in freeing 462 rural workers from forced labor in 1999. In May Pastoral Land Commission President Dom Tomas Balduino announced that des Roziers' name appeared on a "hit list" of 10 names of activists who were to be murdered, drawn up by large landowners. In July Des Roziers and the CPT criticized the use of torture in the Xinguara city police station. Para state civil police chief Joao Moraes responded with a personal attack on des Roziers and accused him of involvement in the murder of a landowner.

Established in April 1997, the Justice Ministry's National Secretariat of Human Rights oversees implementation of a 1996 action plan to address human rights abuses. The Secretariat also administers or sponsors programs to reduce violence among the poor, to train police officials in human rights practices, and to combat discrimination against blacks, women, children, indigenous people, the elderly, and the disabled. In May the Government appointed Gilbert Saboia, former ambassador to Sweden, as the new Secretary for Human Rights.

In May U.N. High Commissioner for Human Rights Mary Robinson visited the country and met with a full range of NGO's as well government officials. Robinson commended the Government for allowing her to investigate and for its recognition of its human rights problems and commitment to seek a solution. Robinson declared that impunity from prosecution is the greatest human rights problem, linking it to killings, torture, racial and sexual discrimination, and the exploitation of children. She also stated that the U.N. might open an investigation into the repression of indigenous rights during an April commemoration of the 500th anniversary of the European arrival to the country (see Sections 2.b and 5).

In December the Government released the second National Report on Human Rights, independently prepared by the Center for the Study of Violence at the University of Sao Paulo. The National Secretariat for Human Rights, the University of Sao Paulo, and the U.N. Development Program co-sponsored the preparation of the report. A comprehensive account of the human rights situation in each state, it provides information on health, education, public security, and labor conditions and a list of human rights monitors and advocates in each state.

In 1999 two attorneys working for a human rights group in Aracatuba, Sao Paulo state, received death threats after successfully prosecuting three police officers who were convicted of torture and homicide. The attorneys asked for police protection and refused to leave the city. Police investigations into the threats produced no results; the attorneys continued their work but without police protection.

*Section 5. Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status*

The law prohibits discrimination on the basis of sex, race, religion, or nationality; however, discrimination against women, blacks, and indigenous people continued to be a problem. The International Labor Organization (ILO) notes that important differences in wages affect women and blacks, particularly in rural areas. A 1997 law provides prison penalties and fines for racist acts, including promulgation of pejorative terms for ethnic or racial groups, use of the swastika, or acts of discrimina-

tion based on sex, religion, age, or ethnic origin. Several persons have been charged with racism since the law's enactment, mostly for the use of racial slurs.

There continued to be reports of violence against homosexuals, although it was not always clear that the victim's sexual orientation was the reason for the attack. The Gay Group of Bahia (GGB), the country's best known homosexual rights organization, and AI have in the past 7 years documented the existence of skinhead, neo-Nazi, and "machista" gangs that attacked suspected homosexuals in cities including Rio de Janeiro, Sao Paulo, Salvador, Belo Horizonte, and Brasilia. In some cases, these gangs included police officers.

In September Jose Eduardo do Bernardes da Silva, a member of AI, and Roberto de Jesus, president of the Gay, Lesbian, and Bisexual Pride Association, both received bombs in the mail with swastikas and the word revenge printed on the package (see Section 4).

Homosexual activist groups reported that 130 gay, lesbian, and transgender persons were murdered during the year, compared to 169 in 1999 and 116 in 1998. However, data compiled by activist organizations and claims that violence against homosexuals is increasing cannot be confirmed, because the motives for the crimes are not always clear. Information from the GGB and other homosexual rights groups clearly indicates that transvestite prostitutes, the most visible homosexual group, are at a greater risk of violence than other homosexuals. Police routinely extort money from transvestites and often beat or kill those who fail to cooperate. Gay rights activists in the city of Recife compiled substantial evidence of extortion and the unlawful use of violence against transvestite prostitutes. In past years, flagrant abuses by the police in the states of Alagoas and Bahia have been reported.

The Secretariat of State Security of Rio de Janeiro state, in partnership with NGO's, continued to operate a hot line to receive complaints of violence or other crimes against homosexuals. The Secretariat also continued to operate a hot line for complaints of prejudice, discrimination, or other crimes based on race, ethnicity, color, religion, or national origin. The offices in police headquarters where both hot lines are located also offered professional counseling to victims of such offenses. Respect for human rights and sensitivity to the problems of minorities and the poor are included in police training in Rio de Janeiro. In April a new Institute for Public Security was created to reform police organization, recruitment, and training; it also aims to improve police performance on human rights.

*Women.*—The most pervasive violations of women's rights involved sexual and domestic violence, which are both widespread and vastly underreported. There is a high incidence of physical abuse of women. Most major cities and towns have established special police offices to deal with crimes of domestic or sexual violence against women; there are over 250 such offices. However, reporting crimes and receiving help continue to be a problem for women living in remote areas who must sometimes travel great distances to the nearest special precinct. For example, the large but sparsely populated states of Acre and Roraima each have only one such precinct. Though the numbers of reported cases of the most common crimes rose through much of the 1990's, they generally have leveled since 1998. For example, in the state of Sao Paulo, there were 1,731 reported cases of rape in the first 11 months of the year, compared with 1,833 for all of 1999. In the Federal District, the number of reported cases of rape declined slightly to 371 during the year, compared with 416 cases in 1999. The annual number of cases of harmful physical assault against women reported to the police in the state of Rio de Janeiro nearly doubled from 1991 to 1999, to 34,831, and the number of rapes reported increased from 952 to 1,455. Both state authorities and women's rights activists agree that a large number of rapes go unreported. According to a 1998 study of two middle-class neighborhoods in Rio de Janeiro, only 10 percent of women who had suffered violent attacks reported them to the police. The Sao Paulo Center for Assistance to Female Victims of Sexual Violence reported that 400 women sought the center's intervention in rape cases after receiving no help from the police in 1998. In Bahia there were 7,751 complaints about violence to women filed with the police Delegate for the Protection of Women during the first 7 months of the year, an increase of 40 percent over the same period in 1999.

Trafficking in women for the purpose of forced prostitution is also a serious problem (see Section 6.f.).

Each state Secretariat for Public Security runs "women's stations" (*delegacia da mulher*). However, the quality and availability of services provided varies widely, especially in isolated areas. These offices are intended to provide the following services for victims of domestic violence: psychological counseling; a "shelter home" for victims of extremely serious abuses who have no place to go; hospital treatment for rape victims, including abortion (up to 12 weeks of pregnancy) and treatment for

HIV and other sexually transmitted diseases; and initiation of criminal cases by investigating and forwarding evidence to the courts.

The penalties for rape vary from 8 to 10 years in prison.

A domestic violence offender in a case that does not involve a serious offense and carries penalties of less than 1 year's imprisonment may receive alternative sentencing with no jail term, according to the Latin American and Caribbean Committee for the Defense of Women's Rights.

Men who commit crimes against women, including sexual assault and murder, are unlikely to be brought to trial and courts still are reluctant to prosecute and convict men who claim that they attacked their wives for infidelity. A 1999 study by an academic at the Catholic Pontifical University of Sao Paulo indicates that 70 percent of criminal complaints regarding domestic violence against women are suspended without a conclusion. Only 2 percent of criminal complaints of violence against women lead to convictions. In 1998 the National Movement for Human Rights reported that female murder victims were 30 times more likely to be killed by current or former husbands or lovers than by others.

The Constitution prohibits discrimination based on sex in employment or pay and provides for 120 days of paid maternity leave. However, the provision against wage discrimination rarely is enforced. According to statistics released in 1998 by the International Confederation of Independent Unions, women are paid, on average, 44 percent less than men. According to government statistics released in 1998, women with a high-school education or less earn, on average, 63 percent of the salaries earned by men with the same level of education. Black women earned on average 26 percent of a white male's salary. A 1998 study by a sociologist showed that women who started working in positions in which they earned twice the minimum wage advanced in pay after 10 years to a wage of seven times the minimum wage. Men starting in the same positions earned 2.6 times the minimum wage and advanced to a wage of 10.9 times the minimum wage after 10 years. A Ministry of Labor survey reported that the average starting salary for high-school-educated women in Sao Paulo was one-third less than the average starting salary for high school educated men. According to the Ministry of Labor and Employment (MLE), Centers for the Prevention of Workplace Discrimination have been established in 16 states. These centers, which are housed in regional bureaus of the Ministry, promote programs to end discrimination in the workplace and cultivate partnerships with other organizations that combat discrimination. The centers also serve as clearing-houses for allegations of discrimination.

In response to the Maternity Leave Law, some employers seek sterilization certificates from female job applicants or try to avoid hiring women of childbearing age. A 1995 law prohibits employers from requiring applicants or employees to take pregnancy tests or present sterilization certificates. Employers who violate the law are subject to a jail term ranging from 1 to 2 years, while the company must pay a fine equal to 10 times the salary of its highest-paid employee.

*Children.*—Millions of children continue to suffer from the poverty afflicting their families, must work to survive, and fail to get an education. Schooling is free and compulsory until the age of 14 and is available in all parts of the country. The education system does not exclude any groups; however, 1.1 million children between 7 and 14 years of age did not attend school in 1999.

In September UNICEF reported that nearly 100,000 children die each year before their first birthday, almost half during the peri-natal period. While the national infant mortality rate declined from 50.8 in 1989 to 36.1 per 1,000 live births in 1998, in some states, such as Alagoas, it reached 72 per 1,000. Some municipalities have a rate of 110 per 1,000.

According to a UNICEF report, over 20 million children and adolescents, or almost 35 percent, live in poverty. About 2.9 million children under the age of 15, including over 375,000 between 5 and 9 years old, continue to work (see Section 6.c.). Many work together with their parents, most often in agriculture. Many other children beg on city streets. According to the most recent government figures released in November 1999 and confirmed by UNICEF, the number of children working has decreased steadily since 1993, while the number of children attending school has increased. However, the overall level of child labor remained roughly the same between 1998 and 1999, because progress in reducing it was hampered by a rise in agricultural production that year. The Federal Government administers a total of 33 programs under 5 separate ministries aimed at combating child labor. The Ministry of Social Security and Assistance's program for the eradication of child labor provided supplemental income or "school scholarships" to the families of 390,000 children in rural and urban areas who, in return, must attend school. The federal scholarship program is supplemented by a number of similar programs administered

by municipalities and NGO's. Some of the largest such programs are in Campinas (Sao Paulo state), Belo Horizonte (Minas Gerais), and Olinda (Pernambuco).

There are no reliable figures on the number of street children. Some are homeless, but the majority return home at night. Disparities in the numbers of children living on the street reported by children's rights activists indicate the difficulty of arriving at accurate estimates. The Center for the Defense of Children and Adolescents (CEDECA) in Belem, in the state of Para, reported that in 1998 a total of 2,328 youths under the age of 18, or 0.5 percent of the youth population, spent their days in the streets. CEDECA estimated that 97 of those youths lived permanently in the streets.

NGO's in Rio de Janeiro have made 28 shelters available for homeless children, but some children prefer the freedom and drugs that street life offers. Drug use, particularly glue sniffing and crack, is increasingly prevalent among street children. NGO's report that extreme poverty at home or sexual abuse by fathers and step-fathers are the principal reasons that many children choose to live in the streets. A national study of rape cases carried out by a group of Sao Paulo academics indicated that family members committed roughly 70 percent of rapes within their own homes. A study by the Brazilian Geography and Statistics Institute (IBGE) reported that 47 percent of Sao Paulo street children come from families that earn less than \$200 (350 reais) per month. Nationwide, the Inter-American Development Bank estimates that some 30 million children live below the poverty line and increasingly come from households headed by women.

In the October 1999 case of a child prostitution ring in Maranhao that involved police, judicial authorities, and elected officials, charges were brought against the owner of a bar, a local judge, a high-ranking police official, and two attorneys. At year's end, trials had not yet taken place.

Youth are both victims and perpetrators of violence. Of all deaths of 15- to 19-year-olds, 72 percent are due to causes such as homicide, suicide, and traffic accidents, which reduces by at least 3 years the average life expectancy of men. During the first half of the year, 50 young people died as a result of manslaughter in the state of Sao Paulo alone. Approximately 85 percent were victims of commercial sexual exploitation and ranged from 12 to 17 years of age. Homicide is the leading cause of death for children aged 10 to 14, and only 1.9 percent of murderers are serving prison sentences.

A 1999 study by the Information Network for Violence, Exploitation, and Sexual Abuse of Children and Adolescents (CECRIA), an entity within the National Human Rights Secretariat, states that government efforts to combat sexual exploitation of children need to be better tailored and coordinated. It cites 40 separate programs operated by national and international NGO's, some in partnership with Government entities, but notes that most of the programs face shortfalls in resources and personnel. In association with the Ministry of Justice, the NGO ABRAPIA has since 1997 operated a telephone hot line to register complaints of sexual abuse against children and adolescents. ABRAPIA also administers the "SOS-child" program in Rio de Janeiro state that registers complaints of domestic abuse against children and provides medical and social assistance.

Sexual exploitation of children and child prostitution remained a significant problem throughout the country. The CECRIA report indicated that patterns of sexual exploitation of children correspond to the distinct economic and social profile of the country's region. In the northern Amazonian region, sexual exploitation of children centers around brothels that cater to mining settlements. In the large urban centers, children, principally girls, who leave home because of abuse or sexual exploitation often prostitute themselves on the streets in order to survive. In the cities along the northeast coast, sexual tourism exploiting children is prevalent, and involves networks of travel agents, hotel workers, taxi drivers, and others who actively recruit children and even traffic them outside the country. Child prostitution also is developed in the areas served by the country's navigable rivers, particularly in ports and at international borders. In port cities, crews from cargo vessels are a primary clientele. The report notes that although trafficking develops in part to meet the demands of foreigners, and that the local population sustains it.

Trafficking in children for the purpose of forced prostitution is a serious problem (see Section 6.f.).

*People with Disabilities.*—The Constitution contains several provisions for the disabled, stipulating a minimum wage, educational opportunities, and access to public buildings and public transportation. However, groups that work with the disabled report that state governments failed to meet the legally mandated targets for educational opportunities and work placement. A 1991 law stipulates that all businesses with over 200 employees must reserve 2 percent of their vacancies for the disabled. In 1999 labor officials in the Federal District launched an information

campaign to encourage firms to comply with the law and warned that noncomplying firms could be fined.

The National Human Rights Secretariat sponsored a "City for Everyone" program in cooperation with municipal governments and national and international NGO's that focused on providing better access for the disabled to public areas and public transport. However, little progress in the elimination of architectural barriers to the disabled has been made. In 1999 Rio de Janeiro state mandated that bus companies must make a specific number of buses on certain routes accessible to wheelchair users within 3 months. By September only 14 public buses—of thousands in the city—had been adapted for wheelchair use. No intercity or interstate buses had been modified. The city of Niteroi put in service 10 vans specifically for the use of disabled persons, but the supply of this service lagged behind the rising demand.

In June the Chamber of Deputies' Human Rights Commission released the report of its investigation into the conditions of mental hospitals and asylums. The report cited many examples of understaffed and poorly administered hospitals, substandard living conditions for many patients, and severely overcrowded and unclean facilities.

According to the Federal Ministry of Education, in 1997 only 5 percent of the estimated 6 million school-age children with disabilities had access to specialized instruction. Throughout the country, 43 percent of school districts offer special instruction for disabled children. In the nine states in the northeast part of the country, only 24 percent of school districts offer special instruction.

*Indigenous People.*—The Constitution grants the indigenous population of approximately 330,000 broad rights, including the protection of their cultural patrimony and the exclusive use of their traditional lands; however, the Government has fallen short of securing these rights for indigenous people in practice. The Government estimates that over half live in poverty in communities whose traditional ways of life are threatened on a variety of fronts. The number of indigenous citizens receiving food assistance in the southern states of Sao Paulo and Rio Grande do Sul exceeded the total indigenous population at the time of the 1995 census in those states. The greatest number of beneficiaries reside in Mato Grosso do Sul state, where 42,000 persons of a total indigenous population of 45,300 receive food assistance.

Indigenous leaders and activists complain that indigenous people have only limited participation in decisions taken by the Government affecting their land, cultures, traditions, and allocation of national resources. They also criticized the Government for devoting insufficient resources to health care, other basic services, and protection of indigenous reserves from outsiders. Illegal mining, logging, and ranching are serious problems on indigenous land.

The National Indian Foundation (FUNAI) is responsible for the coordination and implementation of indigenous policies. The President appoints the head of FUNAI; it is organized into 52 regions with directors appointed directly by the FUNAI president.

The 1988 Constitution charged the Federal Government with demarcating indigenous areas within 5 years. By January the Government had completed demarcation of roughly 79 percent of the total area of identified indigenous territory. During the year, the Government demarcated 4 more areas totaling about 360 square miles. Of the 563 identified indigenous areas, 313 have reached the final registration stage, and 250 remain to be demarcated legally. Identified indigenous territory comprises 11 percent of the national territory.

In December 1998, the Federal Government issued a decree recognizing the original boundaries of the Raposa Serra do Sol indigenous area in the Amazonian state of Roraima, overturning a controversial decision made in 1996 by the Justice Minister to limit and alter the shape of the reserve. In 1999 a state court suspended the demarcation process after local landowners and economic interests filed a suit requesting that action. In 1999 Roraima Senator Mozarildo Cavalcanti presented a bill canceling the 1998 decree. In September the bill was given an unfavorable report in committee. Indigenous activists claim that the Government's failure to allocate resources and complete the demarcation was a political concession to local economic and political interests who then were able to influence the state court. The demarcation of Raposa Serra do Sol has been pending since 1992.

The Constitution provides indigenous people with the exclusive use of the soil, waters, and minerals on indigenous lands, subject to congressional authorization. In granting such authorization, the Constitution stipulates that the views of the affected communities must be considered and that the communities also must "participate" in the benefits gained from such use. However, legislation regulating mining on indigenous lands has been pending before the Congress since 1995. The Catholic Church-affiliated Indigenous Missionary Council (CIMI) criticized the regulations within the legislation that would provide for indigenous groups' approval of mining



concessions and their participation in the profits from mining, on the grounds that they do not address sufficiently the constitutional rights of indigenous people.

In 1999 landowners brought a civil action to the Supreme Court against a lower court ruling in Bahia that restored demarcated land of the Caramuru-Catarina Paraguacu reserve to the Pataxo Ha-Ha-Hae tribe. At year's end, no trial date had been set. Other attempts were made to negotiate between the tribe and landowners.

The Government estimates that 208 of the 563 identified indigenous lands are used illegally by nonindigenous persons for mining, logging, and agriculture. Non-indigenous invaders destroy the environment and wildlife, spread disease, and provoke violent confrontations. FUNAI admits that it does not have the necessary resources to protect indigenous lands from encroachment.

Due partly to the Government's failure to provide adequate medical care as required by law, indigenous people have suffered epidemics of malaria, measles, and tuberculosis. According to the chief of FUNAI's medical department, 60 percent of the indigenous population suffer from a chronic disease such as tuberculosis, malaria, or hepatitis. In certain areas of the Amazon region, up to 80 percent of the population are affected. Illegal mining in the Amazon has led to the doubling of the incidence of malaria in the 1994-98 period. FUNAI estimates that 75 percent of the affected population is indigenous. The infant mortality rate among the Yanomami in 1997 was 13 percent, while infant mortality among nonindigenous residents in the area was only 1.5 percent. According to health workers' unions, poor working conditions and lack of resources from the Government make it very difficult for health workers to travel into indigenous areas to provide sufficient medical care.

FUNAI also has been unable to provide mandated health care and other basic services. Hoping to improve the level of health care provided to indigenous people, in 1999 the Government transferred that responsibility from FUNAI to the Ministry of Health.

According to the Pro-Yanomami Committee, in 1999 FUNASA, the Government's health agency, issued a report showing that in 1998, 279 indigenous persons died in Roraima, 180 of them Yanomami. Most of the deaths were caused by acute respiratory infection, malaria, and diarrhea. Almost half died without having received medical assistance.

In September after Federal prosecutors complained about the slowness of the police investigation, the National Council for Human Rights formed a committee to oversee the investigation of the May 1998 killing of Xucuru Chief Francisco "Xicao" de Assis Araujo. Araujo defended the land claims of his tribe, whose lands are being encroached upon by ranchers in his home state of Pernambuco.

No progress was made in the case of mass sterilizations promoted among women of the Pataxo tribe of Bahia by Federal Deputy Dr. Roland Lavigne in exchange for votes during his 1994 electoral campaign. Women were reluctant to have children due to the general level of poverty in the community, and campaign workers allegedly convinced them that sterilization was the only effective form of birth control. Pataxo leaders claim that the sterilizations were a deliberate program of genocide intended to eliminate their tribe and free their land for farmers who illegally occupy the Pataxo reserve.

In April during the celebration of the 500th anniversary of the arrival of the Portuguese in Porto Seguro (Bahia), police used rubber bullets and tear gas, in violently blocking 2,000 indigenous marchers from entering the city. Indigenous leaders were seeking damages in civil court at year's end. In May U.N. High Commissioner for Human Rights Mary Robinson raised the police's actions with President Cardoso. The President denied any use of excessive force, and in July a Federal Police investigation reached the same conclusion. However, the Federal Public Prosecutor has challenged these findings. FUNAI president Mares resigned in protest over the treatment of indigenous people during the event.

In May an Acre state judge sentenced former Acre governor Orleir Cameli, his family's firm, and his partner Abraao Candido da Silva, to pay about \$5 million (10 million reais) to the Ashaninka-Kampa indigenous group for material and moral damage caused by the extraction of mahogany and cedar from 1981 to 1987. The firm extracted 2,478 cubic meters of wood from the area. Cameli announced he would appeal the decision.

In September CIMI reported that FUNAI was going to press charges against Jordao, Acre city councilman Auton Farias, and two others for the murder of an indigenous person in Tarauaca, Acre.

*Religious Minorities.*—Leaders in the Jewish community expressed concern over the continued appearance of anti-Semitic material on Internet websites compiled by neo-Nazi groups.

Amnesty International reported that Eduardo Bernardes da Silva, a worker with the NGO's office in Sao Paulo, received a suspicious package at his home on Sep-

tember 5. He opened it partially and found a device covered in swastikas, thought to have been sent by a neo-Nazi group. Police confirmed that it was a bomb and destroyed it in a controlled explosion.

The next day a similar bomb was sent to the offices of the Associacao da Parada GLBT, an association which organizes an annual Gay Pride March, reportedly by the same group.

In September a neo-Nazi group sent letters to two prominent Sao Paulo human rights commission members, Renato Simoes and Italo Cardoso, threatening to "exterminate" gays, Jews, black people and nordestinos (people from the impoverished northeast of the country), as well as those seeking to protect their rights. The letter said that the group intended to target a number of human rights organizations on or around the country's September 7 Independence Day, including Tortura Nunca Mais (No More Torture), Action by Christians against Torture, AI, and gay and lesbian groups.

*National/Racial/Ethnic Minorities.*—Although racial discrimination has been illegal since 1951, darker-skinned citizens say that they frequently encounter discrimination. Legislation in force since 1989 specifically prohibits, among other practices, denial of public or private facilities, employment, or housing to anyone based on race. A 1997 amendment to this law added prohibitions against, and jail terms for, the incitement of racial discrimination or prejudice and the dissemination of racially offensive symbols and epithets. The media reported arrests of several persons charged with using racial slurs during the year. Several examples of such cases include that of a seamstress pressing charges against her employer, a stagehand bringing charges against a theatrical director, and a customer pressing charges against an employee of a video rental store. All instances involved use of racial slurs when insults were uttered; at year's end, none had completed the trial process.

In Sao Paulo human rights activists continued to express concern because of discrimination against blacks and poor persons from the northeast by neo-Nazi groups in the south. Many of these groups maintain Web sites that espouse violence. The Sao Paulo State Assembly Human Rights Committee criticized several hate groups who maintain such Web sites and asked the Public Ministry for an investigation. One man, who maintained a Web site that called for the eviction from Sao Paulo of all emigrants from northeastern part of the country, was accused of crimes under the Racism Law. Instead of going to trial, he chose to accept guilt for the crime and did community service as punishment. At year's end, other similar cases still were being investigated.

ISER research noted a disproportionately higher rate of police killings of Afro-Brazilians. Persons of color are five times more likely to be shot or killed in the course of a law enforcement action than are persons who are perceived to be white.

In September two members of the Sao Paulo State Assembly's Human Rights Committee received threatening letters stating that the group which identifies itself as "raca pura" (pure race) is "fighting for an end to homosexuals, blacks, and northeasterners." Sao Paulo's State Secretary of Security ordered an investigation into both incidents. The investigations were ongoing at year's end.

In addition to these violent threats against minorities, research conducted this year at the Federal University of Rio de Janeiro reconfirmed that Afro-Brazilians experience lower standards of living than whites. Cross-checking data from the IBGE, the national statistics office, and the U.N. Human Development Index showed that Afro-Brazilians have lower salaries, life expectancies (62 years instead of 69 years), and educational standards (79 percent literacy rates, compared with 92 percent) than whites. Afro-Brazilians and mulattos still are clearly disadvantaged economically and socially throughout the country. In Sao Paulo, for example, the rate of unemployment among blacks is 22.7 percent, while the rate among nonblacks is 16.1 percent. Nonblacks in Sao Paulo have an average monthly income of about \$523 (1,005 reais), while blacks average only \$267 (512 reais) a month.

According to research carried out by the Inter-Union Department of Statistics and Socioeconomic Studies in 1998, Afro-Brazilians had higher rates of unemployment, earned less, and enjoyed less job stability than white Brazilians in each of the five largest metropolitan regions where data were gathered. In and around Salvador, Bahia, which has the highest percentage of Afro-Brazilians of any metropolitan region, unemployment among Afro-Brazilians was 45 percent higher than among whites (the difference among heads of household was 75 percent). In Sao Paulo, Afro-Brazilian unemployment was 41 percent higher than among whites and 64 percent higher among heads of households. Afro-Brazilian men earned on average between 62 percent and 70 percent of the average salary earned by white men in the five regions surveyed. Afro-Brazilian women earned on average between 33.5 and 47 percent of the average salary of a white man. Illiteracy also is a problem: 32 per-

cent of blacks are illiterate, compared with 14 percent of whites. Blacks are less likely than whites to be enrolled in institutes of higher education.

A much higher percentage of blacks are convicted by courts than whites, according to professor Sergio Adorno of the University of Sao Paulo's Nucleus for the Study of Violence. Adorno analyzed 500 criminal cases judged in Sao Paulo courts in 1990 and found that 60 percent of whites able to afford their own lawyers were acquitted, while only 27 percent of blacks who hired lawyers were found not guilty. Ignacio Cano, a researcher at the Sociological Institute of Religious Studies in Rio de Janeiro, found strong evidence of racial bias by the police in the use of lethal force against residents of color in Rio de Janeiro from 1993 to 1996 and in Sao Paulo from 1996 to 1999. According to Cano, Afro-Brazilians were three times as likely as whites to suffer death or injury from police gunfire.

In 1997 the Federal Government's Interministerial Working Group for the Valorization of the Black Population issued 29 recommendations, including the creation of affirmative action programs for university admissions and government hiring. The group is charged with proposing public policies to increase the participation and access of Afro-Brazilians in society. The National Secretariat for Human Rights adopted some of the group's recommendations in the national human rights program, which now contains, as a specific goal, the development of affirmative actions programs to increase access for Afro-Brazilians to professional schools and universities.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution and the Labor Code provides for representation of all workers (except members of the military, the uniformed police, and firemen) but imposes a hierarchical, unitary system funded by a mandatory union tax on workers and employers. New unions must register with the Ministry of Labor and Employment (MLE), which accepts the registration if no objections are filed. Registration can be contested with the MLE by other unions which represent workers in the same geographical area and professional category. In the case of such an objection, the MLE's Secretariat for Labor Relations has 15 days to consider the validity of the objection. If the objection is found to be valid, the MLE will not register the union and it remains for union organizers to challenge the decision in the labor courts.

The 1988 Constitution freed workers to organize new unions out of old ones without prior authorization of the Government; however, it retained many other provisions of the old labor code. One such provision is a restriction known as "unicidade" ("one-per-city"), which limits freedom of association by prohibiting multiple, competing unions of the same professional category in a given geographical area. Most elements of the labor movement, as well as the International Confederation of Free Trade Unions (ICFTU), criticize the retention of unicidade. The Cardoso administration submitted a constitutional amendment to Congress that would end unicidade, but at year's end, it still had not come to a vote due to disagreement over the proposal.

In practice a number of competing unions have been allowed to exist among the thousands of local unions. However, these do not represent the norm, and the MLE and the courts actively enforce the principle of unicidade in decisions regarding the registration of new unions.

Approximately 16 percent of the work force voluntarily pays union dues, but nearly twice that percentage is charged a mandatory union tax and also is represented in collective bargaining. The Ministry of Labor estimates that there are over 16,000 unions. Local unions are able to associate with state federations and national confederations in their professional category. Unions are obliged by law to represent all workers in a professional category and geographical area, regardless of membership status.

Although the law makes no provision for central labor organizations that include multiple categories of workers, four major groups have emerged: the Workers' Unitary Central (CUT), the Força Sindical (FS), the Workers' General Confederation (CGT), and the Social Democratic Union (SDS). Labor centrals are not provided for in the Labor Code, and centrals do not have legal standing to represent professional categories of workers in collective bargaining.

Unions and their leadership are independent of the Government and of the political parties. The leadership of major unions is distinct and independent from that of the political parties. The major union centrals tend to share links to various left-of-center political parties. In some instances, unions and centrals form alliances with political parties and social movements to advocate or carry out protest acts regarding specific issues. One of the largest such acts in recent years was the "March of 100,000," which brought 75,000 representatives of the CUT, the National Confed-

eration of Agricultural Workers, the MST, and 30 other organizations to Brasilia in 1999 to protest government policies.

The Constitution provides workers with the right to strike (except for the military, police, and firemen). Enabling legislation passed in 1989 stipulates that essential services must remain in operation during a strike and that workers must notify employers at least 48 hours before beginning a walkout. Congress has yet to pass the complementary legislation establishing legal protection for strikes in the public sector; however, in practice the Government has not interfered with the right of public workers to strike. The Constitution prohibits government interference in labor unions, but provides that "abuse" of the right to strike (such as not maintaining essential services, or failure to end a strike after a labor court decision) is punishable by law. Employers are prohibited from firing workers or hiring substitute workers during a strike, with certain exceptions, provided that the strike is not ruled abusive. If a union follows the laws regarding strikes, which were eased in the 1988 Constitution, the labor courts generally do not rule that the strikes are abusive.

The number of strikes has diminished in recent years. According to the Inter-union Department of Socioeconomic Studies and Statistics (DIEESE), there were approximately 550 strikes in 1999, compared with 1,250 strikes recorded in 1996. In the city of Sao Paulo and the surrounding region, which covers the country's industrial center, data from the regional labor court showed that there were 84 strikes during the year, the lowest number in a decade. Public sector strikes received the most attention in the media during the year. Public sector unions that struck during the year include municipal transit workers, customs agents, public teachers, state university workers, and various categories of federal employees. In addition major strikes in the private sector included the metalworkers of Sao Paulo, bank workers, truck drivers, and longshoremen in the port of Santos.

On May 18 in Sao Paulo, military police fired tear gas and rubber bullets into a crowd of striking workers from a coalition of 25 unions linked to the CUT. More than 20 strikers were injured. Strikers reacted by throwing rocks and cans at police, injuring five policemen (see Section 1.c.). The ICFTU reported that police fired on striking workers at a government-run company in Brasilia in December 1999, killing public sector worker Jose Ferreira da Silva and injuring 20 others. Although police said that they used only tear gas and rubber bullets, live ammunition was found in Ferreira's body.

According to leaders of the National Confederation of Agricultural Workers, an organized campaign exists in the state of Para to assassinate rural labor leaders. In November labor organizer Jose Dutra da Costa was shot and killed in Rondon do Para. Costa served as director for land reform policy of the local union, which was involved in taking over disputed land for the settlement of rural workers. In June in the state of Para, Jeronimo Alves de Amorim was convicted of ordering the 1991 murder of the head of a local workers' union, Expedito Ribiero de Souza (see Section 1.a.).

Unions and centrals freely affiliate with international trade union organizations; the CUT, FS, and CGT are affiliated with the ICFTU.

The ICFTU reports that intimidation and killings of rural labor union organizers and their agents also continues to be a problem.

*b. The Right to Organize and Bargain Collectively.*—The Constitution provides for the right to organize. Businesses and unions are working to expand and improve mechanisms of collective bargaining. However, due to the highly detailed labor code, the scope of issues legally subject to collective bargaining is narrow. The labor court system exercises normative power with regard to the settlement of labor disputes, discouraging direct negotiation. The Cardoso administration made expansion of collective bargaining one of its major objectives in the labor sector. However, the Labor Ministry has yet to introduce legislation on the issue due to fierce resistance by labor unions, which view such government efforts as an attempt to make negotiable collective bargaining rights provided for by the Constitution.

Collective bargaining is widespread in the formal sector. More than 16,700 negotiated contracts were registered with the Labor Ministry in 1999, a significant increase from the 10,000 contracts registered 2 years earlier. To be binding, all collective bargaining agreements must be reported to the Labor Ministry within 8 days of their conclusion. In spite of the prevalence of collective bargaining, unicidade and the inability of new unions to compete with existing unions limit the effectiveness of negotiations and the bargaining power of unions. As a result, DIEESE reports that only half of the collective bargaining agreements it tracked in 1999 contained wage increases that kept pace with inflation.

In 1995 the Cardoso administration promulgated a provisional measure that simultaneously ended inflation indexing of wages, allowed for mediation of wage settlements if the parties involved so desired, and provided greater latitude for collec-

tive bargaining. Previously the labor court and the Labor Ministry had responsibility for mediation in the preliminary stages of dispute settlement. Although labor court decisions still set wages in many disputes, parties now may choose mediation as an alternative. Free mediation services are provided by the Ministry of Labor and the Public Ministry of Labor, and unions and employers also may choose a private mediator from a registry kept by the Labor Ministry.

The Constitution incorporates a provision from the old labor code that prohibits the dismissal of employees who are candidates for or holders of union leadership positions. Nonetheless, dismissals take place, with those dismissed required to resort to a usually lengthy court process for relief. In general the authorities do not effectively enforce laws protecting union members from discrimination. Labor courts charged with resolving these and other disputes involving unfair dismissal, working conditions, salary disputes, and other grievances are slow and cumbersome. At year's end, over 2.5 million complaints were languishing in the labor court system, where they may remain unresolved for 5 to 10 years. According to the Supreme Labor Court, over 2 million complaints have been registered in labor courts each year during the past 5 years.

The Government is attempting to reduce this backlog and increase the efficiency of the courts. Legislation approved in January enables cases with relatively low monetary claims to be adjudicated in one meeting with a judge within 30 days of the filing. Another recent law promotes the formation of employee/employer conciliation commissions designed to resolve grievances before they reach the labor courts. In the past, according to union officials, as many as 95 percent of cases in courts took between 5 to 10 years to resolve.

Labor law applies equally in the free trade zones. The unions in the Manaus free trade zone, like rural unions and many unions in smaller cities, are weaker vis-à-vis employers than unions in the major industrial centers.

*c. Prohibition of Forced or Compulsory Labor.*—The Constitution prohibits forced labor; however, there continue to be credible reports of compulsory labor in many parts of the country. The 2000 ICFTU report states that forced laborers number in the hundreds of thousands, but there are no government sources to confirm such estimates. Forced labor is most common in agricultural activities in the rural north and center-west of the country, in logging, charcoal production, herding, and agriculture. The majority of cases occur when employers recruit laborers from population centers and transport them long distances to remote areas where escape is difficult. Laborers often are forced to work in inhuman conditions, many times under the watch of armed guards, to pay off debt that they incurred on the trip or at the worksite. In many cases, overseers or owners of farms withhold pay from migrant laborers and use force to retain and intimidate them.

According to the Penal Code, violators of forced or compulsory labor laws may be sentenced up to 8 years in prison. Legislation passed in December 1988 better defined penalties for those who recruit workers under fraudulent claims, withhold documents or salaries, or force workers to labor against their will to repay debt.

Government officials and labor activists say that widespread poverty, low levels of education, and lack of awareness of workers' rights greatly complicate efforts to combat forced labor. Enforcement also has been hampered by the remoteness of the areas in which forced labor is practiced and the difficulty of arriving in these areas without alerting those using illegal labor. Additionally, freed workers often are afraid to testify against those who recruited and supervised them and are unable to remain in the region in order to testify. Thus the authorities often have found it difficult to identify and prosecute the owners of farms or businesses that exploit forced labor. In its March report, the ILO Committee of Experts noted that when convictions do occur, usually only the third party recruiters are punished and the owners of the large estates who employ illegal labor are not sanctioned. Beginning in 1996, the Government may expropriate and use in land reform programs land on which slave labor is found. However, land owners must be compensated for these lands. In one case, the Government paid the owner of the Flor da Mata ranch in the Para state for lands expropriated for use in land reform in 1998. The Pastoral Land Commission objected to the amount paid to the ranch owner, stating that it was well above what the owner paid for the land, thereby contributing to a sense of impunity and rewarding those who allow their lands to be used for forced labor. There is proposed legislation in Congress that would allow land to be confiscated with no payment to land owners.

Federal Government efforts to eliminate forced labor are coordinated by the Executive Group to Combat Forced Labor (GERTRAF), which was established in 1995. The Ministry of Labor coordinates GERTRAF, which includes representatives from seven different ministries. The enforcement arm of GERTRAF is the Special Group for Mobile Inspection (SETIF), which works in conjunction with Federal Police. Dur-

ing 1995–98, the teams carried out more than 500 raids. They reached over 140,000 persons working under varying conditions approximating forced labor. Over this period, SETIF freed nearly 800 workers from slave-like conditions and helped in the prosecution and incarceration of 13 persons. SETIF conducted 123 raids and freed 639 workers from forced labor in 1999—more than in any previous year. Through the first 6 months of the year, the group freed 418 workers from 45 ranches and levied over \$200,000 (370,000 reais) in fines. Although 33 minors under 16 years of age were found working on ranches during raids by SETIF during the year, none of them were laboring in conditions of forced or compulsory labor.

In its largest single operation to date, SETIF and the Federal Police freed 135 workers from slave-like conditions on a cotton ranch in the state of Mato Grosso in April. The team responded to a complaint made by 15 workers who had escaped from the ranch in February and reported working 7 days a week among rats and snakes, sleeping on the ground, and paying high prices for spoiled food. Workers had been recruited from cities in the region with promises of good housing, food, and salaries; instead, they were forced to work at gunpoint in inhuman conditions. The authorities are investigating at least eight other ranches in the region for suspected use of forced labor.

GERTRAF receives allegations of forced labor from labor unions and other organizations. The CUT initiated a 24-hour hot line with a toll-free number for reporting instances of forced labor in 1997. However, the most important supplier of information to GERTRAF is the Catholic Church's Pastoral Land Commission, which tracks instances of forced labor and carries out campaigns to educate workers about the risks of forced labor. The CPT reported 16 instances of forced labor involving 1,099 workers in 10 states in 1999. Over one-half of these forced laborers were found in the state of Para. The 1999 figures represented a reversal of a 3-year trend of declining instances of forced labor. The CPT reported that, due to the hidden and complex nature of forced labor, these figures significantly understate the actual number of workers trapped in conditions of forced and compulsory labor in the country.

The law also bars forced and bonded labor by children. Although the MLE found no children working as forced laborers during the year, in 1999 the Pastoral Land Commission reported 25 children under the age of 16 found working in conditions of forced labor. In March the ILO reported that observers have cited over 3,000 girls who were subject to debt servitude and forced into prostitution in the state of Rondonia.

Trafficking in women and children for the purpose of forced prostitution also is a problem (see Section 6.f.).

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The law restricts work that may be performed by children; however, child labor is a serious problem. The Government amended the Constitution in December 1998 to raise the minimum working age from 14 to 16 years and the age at which apprenticeships may begin from 12 to 14 years. The law bars all minors under age 18 from work that constitutes a physical strain or from employment in nocturnal, unhealthful, dangerous, or morally harmful conditions. However, the authorities rarely enforce additional legal restrictions intended to protect working minors under age 18, and the problem is widespread.

The law requires permission of the parents for minors to work as apprentices, and working minors must attend school through the primary grades. Schooling is universal, free, and compulsory until the age of 15.

The rate of school enrollment of children aged 7 to 14 increased from 89.1 percent in 1994 to 95.5 percent in 1999. Rates of repetition have dropped from 30.2 percent in 1995 to 23.4 percent in 1997. Despite these promising numbers, repetition rates and the poor quality of public schools continued to be problems. Fully 40 percent of first-graders repeat the year, and in a number of states first-graders are more likely to fail than to pass. Even with increased enrollment, there still were 1.1 million children between the ages of 7 and 14 who are not attending school.

Although still a serious problem, the incidence of child labor has dropped significantly in recent years. According to government figures, the number of working children fell by nearly 24 percent between 1995 and 1999. Over the same period, the rate of participation in the work force of children from the ages of 5 to 14 dropped from 11 to 9 percent. Nevertheless, more than 2.9 million children under the age of 15 continued to work in 1999. Frequent accidents, unhealthy working conditions, and squalor are common.

A 1999 Labor Ministry report indicates that children work in about 100 rural and urban activities. Common rural activities include fishing, mining, producing charcoal, and harvesting sugarcane, sisal, tobacco, cotton, citrus fruits, and a variety of other crops. In urban areas, children are found in shoe shining, trash picking, street peddling, prostitution, and drug trafficking. According to the Government's Institute

for Applied Economic Research, there are around 400,000 children between the ages of 10 to 16 working as domestic servants.

The Ministry of Labor and Employment is responsible for inspecting worksites to enforce child labor laws. These efforts are guided regionally by special Nuclei for the Eradication of Child Labor, which gather data and develop plans for child labor inspection. Nearly all inspections of children in the workplace are driven by allegations and tips from workers, teachers, unions, NGO's, and the media. Approximately 3,200 inspectors investigated 52,000 establishments in 1999. Inspectors lack authority to investigate allegations of child labor in informal sector establishments, where most child labor is found. In all cases but the worst forms, inspectors attempt to reach an alternative solution before applying fines of around \$225 (400 reais) per violation. Inspectors also may refer cases to prosecutors from the Public Ministry of Labor, who are able to levy fines upwards of \$1,670 (3,000 reais) and investigate cases in the informal sector.

Fighting child labor is a priority of the Cardoso administration. The Ministry of Social Security and Assistance's Program for the Eradication of Child Labor (PETI) provides cash stipends to low-income families who keep their children in school and out of work activities. Because the public school day lasts only 4 hours, PETI also offers complementary cultural and instructional activities to children during non-school hours to keep them from situations in which they could be put to work. PETI has grown from assisting about 3,700 children in 2 states in 1996 to over 390,000 in nearly all 26 states by the end of the year. The program started with children involved in hazardous activities in rural areas, such as charcoal production and sisal, sugar cane, and citrus harvesting. Other rural activities recently included in the program are work in cotton and tobacco fields, flour mills, salt mines, horticulture, weaving, fishing, wood mills, brick production, ceramics, and mining. The PETI program also is growing rapidly in urban activities such as trash picking, shoe shining, and street peddling.

Social programs to end child labor have been matched by investments in programs to support greater access to education. The Ministry of Education's (MEC) Program for the Guarantee of a Minimum Income (PGRM) provides low-income families with modest monthly stipends—typically ranging from \$6–8 (10–15 reais) per child—provided that all children aged 7–14 in the household are attending school. The poorest 20 percent of municipalities in each state are eligible to enroll in the program and receive funds from the Federal Government. MEC estimates that the PGRM has benefited 1 million children in more than 500,000 families. The Government supplements this program with a decentralized school lunch program that serves 37 million children across the country.

In December 1999, the Government ratified ILO Convention 138 dealing with the minimum age for work and Convention 182 on the eradication of the worst forms of child labor. At year's end, Convention 138 had not taken effect due to technical issues concerning the minimum working age that the Government submitted to the ILO. In March the Ministry of Labor established a tripartite commission to produce a list of worst forms of child labor to be eradicated in the country. At year's end, the commission produced a list of over 80 such activities, which includes 27 new activities that are to be banned for all workers under 18 years of age. These new activities include cutting sugar cane, applying pesticides, and driving tractors.

Civil organizations have played a fundamental role in reducing the number of children working. One of the organizations coordinating the diverse efforts has been the National Forum for the Prevention and Eradication of Child Labor. The Forum was established in 1994 with funding from the ILO and UNICEF, and has chapters in every state and over 40 institutional members from government, unions, employers, and NGO's. The ILO's Program on the Elimination of Child Labor (IPEC) sponsors programs in footwear, charcoal, citrus, sisal, and domestic service. IPEC programs have focused on capacity building, awareness raising, research promotion, and the implementation of a 2003–2005 national campaign to highlight the worst forms of child labor.

end child labor. All major union centrals have made firm commitments to eradicate child labor by reporting violations and implementing programs to educate union members about the hazards of child labor. The News Agency for Children's Rights closely tracks stories in the media, publishes studies, and gives awards to media outlets that effectively cover children's rights.

*e. Acceptable Conditions of Work.*—The minimum wage is approximately \$77 (151 reais) a month, which is not sufficient to provide a decent standard of living for workers and their families. A 1999 study by DIEESE concluded that the minimum wage was only about one-seventh of the salary necessary to support a family of four in the Sao Paulo metropolitan area. Many workers outside the regulated economy, particularly in the rural northeast, earn less than the minimum wage. At year's end, Congress was considering legislation that would increase the minimum wage.

The Constitution limits the workweek to 44 hours and specifies a weekly rest period of 24 consecutive hours, preferably on Sundays. The Constitution provides for pay and fringe benefits and establishes protections for agricultural and domestic workers, although not all provisions are enforced. All workers in the formal sector receive overtime pay for work beyond 44 hours, and there are prohibitions against excessive use of overtime.

Unsafe working conditions are prevalent throughout the country. Fundacentro, part of the Ministry of Labor, sets occupational, health, and safety standards, which are consistent with internationally recognized norms. However, the Ministry has insufficient resources for adequate inspection and enforcement of these standards. If a worker has a problem in the workplace and has trouble getting relief directly from an employer, the worker or union can file a claim with the regional labor court, although in practice this frequently is a cumbersome, protracted process.

The law requires employers to establish internal committees for accident prevention in workplaces. It also protects employee members of these committees from being fired for their committee activities. However, such firings do occur, and legal recourse usually requires years for resolution. Individual workers do not have the legal right to remove themselves from the workplace when faced with hazardous working conditions; however, workers may express such concerns to the internal committee, which would conduct an immediate investigation.

*f. Trafficking in Persons.*—The law prohibits the transport of persons for illicit reasons within and outside the country; however, trafficking in persons, including women and children, in, to, and from the country is a problem. Penalties for trafficking in persons include fines and prison sentences ranging from 1 to 12 years, depending on the severity of the abuse and whether violence, threats, or fraud were employed.

Trafficking within the country often takes the form of rural workers being transported long distances to work on remote ranches in slave-like conditions (see Section 6.c.).

Trafficking of women and children for purposes of prostitution, both within the country and to other countries is also a problem.

Laws on trafficking are enforced by the Federal Police. Officials reported that it is very difficult to capture and incarcerate traffickers because they must be caught in the act of traveling with the victims. Further, most women who leave the country with traffickers do so willingly, and only upon arrival do they realize the severe conditions under which they are forced to work and live. Officials also report that fear of reprisals keeps a number of victims from seeking police intervention or from testifying against those who persecuted them.

The U.N. reported that over 75,000 Brazilian women work as prostitutes in Europe. According to the report, most of the women come from the states of Goias, Rio de Janeiro, and Sao Paulo. During the year, the Federal Police arrested several suspects in the capital of Brasilia, Goias, Rio de Janeiro, and Ceara involved in recruiting women to work as prostitutes abroad, mainly in Spain, but also in Portugal, Japan, and Israel. Police officials stated that in most cases women who are recruited by trafficking organizations understand that they are to work as prostitutes, but that they are lied to about working conditions and their prospective earnings. In other cases women were told that they would work as nannies or as household servants. Upon arrival victims of trafficking often have their passports confiscated and are forced to prostitute themselves and live in virtual confinement. As in other types of trafficking, perpetrators use debt and isolation to control the victims.

In March the federal police arrested one person who was connected to a trafficking ring that brought women from the state of Goias to Spain. The person allegedly received \$130 (234 reais) in return for each woman transported from the bus station to the airport. Four women were with the suspect at the time of arrest.

In June the Federal Police uncovered a travel agency in Goias which had recruited and sent at least 20 women to work as prostitutes in Spain. At year's end,



the two agency owners were in prison awaiting trial; the recruiters were still at large.

The Government took a number of steps over the year to combat child prostitution. To call attention to the problem and foster initiatives to fight it, May 18 was declared the first National Day against the Sexual Exploitation of Children and Adolescents. Legislation enacted in June lengthened the maximum sentence to 10 years in prison for those who manage brothels that exploit child prostitutes. In July the Government announced the first national pilot program to combat child prostitution. The program has a budget of a \$556,000 (1 million reais) but was geared to begin its outreach operations at the end of the year.

## CANADA

Canada is a constitutional monarchy with a federal parliamentary form of government. Citizens periodically choose their representatives in free and fair multiparty elections. On November 27, voters elected a majority of 172 Liberal Party members to the 301-seat Parliament, and Jean Chretien began his third term as prime minister. The judiciary is independent.

Elected civilian officials control the federal, provincial, and municipal police forces. The armed forces have no role in domestic law enforcement except in national emergencies. Laws requiring the security forces to respect human rights are observed strictly, and the courts punish violators.

Canada has a highly developed, market-based economy. Laws extensively protect the well-being of workers and provide for workers' freedom of association.

The Government generally respected the human rights of its citizens, and the law and judiciary provide effective means for dealing with individual instances of abuse; however, there were problems in some areas. Problems include discrimination against aboriginals, the disabled, and women. There was an increase in anti-Semitic harassment. The Government continued to take serious steps to address private acts of violence against women. Trafficking of persons into the country, including trafficking for purposes of prostitution is a growing problem.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Political and Other Extrajudicial Killing.*—There were no reports of political killings.

Four Toronto policemen were charged with manslaughter for the death of a suspect whom they beat while taking him into custody outside a convenience store in August. Accounts of the incident vary as to what actually transpired at the time.

The Government made concerted efforts to resolve issues stemming from two controversial shooting deaths in previous years. In May an Alberta provincial court judge issued a fatality inquiry report on the causes of a 1998 incident in which a Royal Canadian Mounted Police (RCMP) officer shot a woman and her child on the Tsuu T'ina reservation. The report's 18 key recommendations focused on the needs of indigenous people and improvements in police and family services procedures, and other measures to prevent similar situations from occurring. A court upheld the 1999 conviction for criminal negligence of a police officer in the 1995 shooting death of an aboriginal activist at Ipperwash, Ontario.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices, and the Government observes these prohibitions in practice; however, there were isolated incidents of police mistreating suspects. In February the RCMP began an inquiry into the deaths of four native men, two of whom were found frozen on the outskirts of Saskatoon and two of whom were found dead in or near their homes. Another native man filed charges against two Saskatoon police officers who allegedly picked him up in a police cruiser, drove him to the same spot outside the city where the two other men were found dead, and left him in sub-zero temperatures. At year's end, the two officers were awaiting trial in this case. In October Saskatchewan's Justice Minister ordered a public inquest into the events that led to the death of one of the men who had been found dead in his home, due to a drug overdose, shortly after being released from police custody. The provincial public prosecutions office already had decided that there was no basis for pressing criminal charges in relation to this case.

The military continued to receive complaints from women serving in the armed forces who charge that they are subject to sexual abuse, harassment, and discrimi-

nation. A new armed forces grievance board that is independent of the military chain of command began operations in June. In addition, other mechanisms established by the Government to address such complaints, including the Advisory Board on Canadian Forces Gender Integration and Employment Equity and an Ombudsman in the Department of National Defense, continue to operate. During the year, the Ombudsman received 14 discrimination complaints, 128 harassment complaints, and 2 sexual assault complaints.

In 1999 Toronto police continued a review of procedures following public complaints about the use of strip searches and body cavity searches in several routine arrests. The review determined that there were isolated incidents of unnecessary searches. Toronto police authorities determined that the policy still was appropriate and during the year provided further guidance to officers about when such searches are appropriate.

In June the RCMP Public Complaints Commission completed its hearings on the controversy surrounding the use of pepper spray to break up demonstrations at the November 1997 Asia Pacific Economic Cooperation (APEC) conference in Vancouver (see Section 2.b.). The Commission had not issued a report by year's end.

Prison conditions meet minimum international standards, and the Government permits visits by human rights monitors. However, the Ombudsman Ontario remains concerned about "recurring evidence" presented in three separate investigations concluded during the year that there is a "systemic problem in the lack of consistent application of official policy and standing order across correctional facilities in the province's prison system." The Ombudsman investigated a variety of problems during the year, including segregation procedures, use of force, and lost property. The Ombudsman also made recommendations concerning standards of hygiene, health care, and fair and reasonable treatment to the Ministry of Correctional Services; the Ombudsman reports that the Ministry has begun to make improvements in these areas.

*d. Arbitrary Arrest, Detention, or Exile.*—The law prohibits arbitrary arrest, detention, or exile, and the Government observes these prohibitions.

*e. Denial of Fair Public Trial.*—The law provides for an independent judiciary, and the Government respects this provision in practice. The judiciary provides citizens with a fair and efficient judicial process and vigorously enforces the right to a fair trial.

The court system is divided into federal and provincial courts, which handle both civil and criminal matters. The highest federal court is the Supreme Court, which exercises general appellate jurisdiction and advises on constitutional matters.

The judicial system is based on English common law at the federal level as well as in most provinces; in the province of Quebec, it is derived from the Napoleonic Code. Throughout the country, judges are appointed. In criminal trials, the law provides for a presumption of innocence and the right to a public trial, to counsel (which is free for indigents), and to appeal. The prosecution also can appeal in certain limited circumstances.

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The law generally prohibits such practices, government authorities respect these prohibitions, and violations are subject to effective legal sanction.

## *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and of the press, and the Government respects these rights in practice; however, the Supreme Court has ruled that the Government may limit free speech in the name of goals such as ending discrimination, ensuring social harmony, or promoting gender equality. The Court ruled that the benefits of limiting hate speech and promoting equality are sufficient to outweigh the freedom of speech clause in the Charter of Rights and Freedoms.

Journalists occasionally are banned from reporting some specific details of court cases until a trial is concluded, and these restrictions, adopted to ensure the defendant's right to a fair trial, enjoy wide popular support. Some restrictions on the media are imposed by provincial-level film censorship, broadcasters' voluntary codes curbing graphic violence, and laws against hate literature and pornography. The Charter of Rights and Freedoms provides for free speech and free press, but both the Criminal Code and human rights legislation have established limits. Inciting hatred (in certain cases) or genocide is a criminal offense. The Supreme Court has set a high threshold for such cases by specifying that these acts must be proven willful and public. The Broadcasting Act, which prohibits programming containing any abusive comment that would expose individuals or groups to hatred or contempt, has not yet been challenged in the courts.

The Human Rights Act also prohibits repeated communications by telephone that expose a person or group to hatred or contempt. Human rights groups are exploring the possibility of extending this prohibition to the Internet, arguing that the Internet should be considered "telephonic communications" and therefore covered under the Human Rights Act. Between October and December, the Human Rights Tribunal heard two complaints that the Ernst Zundel web site, known for its Holocaust-denial material, incites hatred against Jews. The case was ongoing at year's end.

On September 13, an unidentified gunman shot and wounded Michel Auger, the organized crime repnd wn foLe Jourbunade M corealws. Thprevious day,el Auges do-

or withdrawn. A total of 43 adults remained in custody at year's end. A total of 115 children were placed in the care of the Ministry of Children and Families.

There was no information publicly available on the results of a formal inquiry into a Chinese refugee's claims that prison officers had beaten him in December 1999.

There were no reports of the forced expulsion of persons to a country where they feared persecution.

### *Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The Constitution provides citizens with the right to change their government peacefully, and citizens exercise this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

On November 27, national parliamentary elections were held, in which the Liberal Party won a majority with 172 of 301 seats. The Canadian Alliance (conservative) won 66 seats, the Bloc Quebecois (separatist) won 38 seats, the New Democratic Party (liberal) won 13 seats, and the Progressive Conservative Party (conservative) won 12 seats. Jean Chretien of the Liberal Party entered his third term as Prime Minister.

A significant body of opinion in the Province of Quebec (represented by the party that currently governs the province) continues to maintain that Quebec has the right to withdraw from the Confederation if that decision proves to be the democratically expressed will of the people of Quebec. However, in June the Federal Government enacted legislation to clarify its role in a possible secession attempt by a province. The new law is in response to a 1998 Supreme Court reference (an answer to a question referred to the Court by the federal government), which stipulated that the Federal Government would be obliged to negotiate Quebec's separation in good faith if a clear majority of Quebecers voted to separate on the basis of a clearly phrased question. The new legislation stipulates that the House of Commons must determine whether any future secession referendum question proposed by a province is clear, and whether any subsequent majority vote is large enough to obligate the Government to negotiate secession. The legislation was controversial with Quebec's provincial government, which then drafted and, on May 30, passed Bill 99 to underline the right of the Quebecois to self-determination and to decide the political regime and legal status of Quebec.

There are no laws limiting the participation of women in political life; however, they are underrepresented in government and politics. Following the November elections, in the Parliament, 62 of 301 members in the House of Commons are women, and 33 of 105 senators are women. Women hold 10 seats in the 36person Cabinet. In November 1999, a woman was appointed for the first time as Chief Justice of the Supreme Court.

### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A wide variety of human rights groups operate without government restriction, investigating and publishing their findings on human rights cases. Government officials are very cooperative and responsive to their views.

### *Section 5. Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status*

The Charter of Rights and Freedoms provides for equal benefits and protection of the law regardless of race, national or ethnic origin, color, religion, sex, age, or mental or physical disability. These rights generally are respected in practice; however, there were some complaints of discrimination in this multicultural society.

*Women.*—The law prohibits violence against women, including spousal abuse; however, it remained a problem. The number of sexual assault crimes have declined over the past 5 years; however, in 1999 a total of 23,872 cases of sexual assault were reported. The courts consider such cases seriously and those convicted of sexual assault face up to 10 years in prison. Cases involving weapons, threats, wounding, or endangerment of life carry longer sentences, up to life imprisonment.

The Government's publication on family violence statistics indicates that an estimated 8 percent of women (and 7 percent of men) who were married or living in a common-law relationship during the previous 5-year period experienced some type of violence committed by their partner on at least one occasion. The economic costs of violence against women are estimated to be \$2.7 billion (Can \$4.2 billion). Services available to abused women have increased significantly over the past 2 decades. For example, the number of shelters for abused women across the country increased from 75 in 1979 to 470 in 1998.

The Criminal Code prohibits criminal harassment (stalking) and makes it punishable by imprisonment for up to 5 years. The law prohibits sexual harassment, and

the Government enforces this provision. Women continued to complain of harassment in the armed forces, and the Government has set up mechanisms to try to resolve complaints (see Section 1.c.).

Women are well represented in the labor force, including business and the professions. Employment equity laws and regulations cover federal employees in all but the security and defense services. In October 1999, the Federal Government agreed to a settlement following an unsuccessful appeal of a 1998 Human Rights Tribunal ruling that the Government must pay back wages to workers in underpaid positions (predominantly female) under the concept of equal pay for work of equal value. Payment was made and finalized this year.

Women have marriage and property rights equal to those of men. Women head over 85 percent of single-parent households.

Prostitution is legal, but pimping and operating, being found in, or working in a brothel are not. Living (wholly or partially) on the earnings of prostitution is illegal. Communicating in public for the purpose of prostitution (solicitation) is also illegal, but is considered a lesser offense than the other offenses related to prostitution.

Women were trafficked for purposes of commercial sexual exploitation (see Section 6.f.).

*Children.*—The Government demonstrates its strong commitment to children's rights and welfare through its well-funded systems of public education and medical care. Education is free through grade

13 and is compulsory nationwide through age 15 or 16, depending on the province. Federal and provincial regulations protect children from abuse, overwork, and discrimination and penalize perpetrators of such offenses.

There is no societal pattern of abuse of children. Changes to the law in 1997 strengthened tools to combat child prostitution and prohibited female genital mutilation, which is widely condemned by international health experts as damaging to both physical and psychological health.

A group of 1,500 citizens, who as orphans were diagnosed falsely as retarded and psychotic, and illegally interned in mental institutions during the 1930's, 1940's, and 1950's, continued to seek compensation from the provincial and Federal governments. They charge that the Government is responsible for the abuse that they received in the Catholic Church-run institutions, including beatings, electric shock treatment, and sexual abuse. In 1999 they formed a committee to seek restitution for the abuse suffered. In May the Catholic Church announced that it would participate in a "compassion fund," but would not issue a formal apology or admit fault in the cases. Quebec Premier Bouchard reiterated his government's compensation offer of approximately \$650 (C\$1,000) each to the victims, but the committee representing the orphans rejected the offer as insufficient.

Children were trafficked for purposes of commercial sexual exploitation (see Sections 6.c., 6.d., and 6.f.).

*People with Disabilities.*—There is no legal discrimination against disabled persons in employment, education, or in the provision of other state services. Nevertheless, the Government continued to receive numerous complaints regarding societal discrimination against disabled persons and has instituted programs to discourage such discrimination. Disabled persons are underrepresented in the work force; they make up 2.7 percent of the federally regulated private sector work force, while those capable of working total 6.5 percent of the population. The law mandates access to buildings for persons with disabilities, and for the most part the Government enforces these provisions.

In 1999 the province of Alberta announced that it would compensate the nearly 500 surviving persons who were sterilized without their consent under a policy aimed at residents of mental institutions. More than 2,000 Albertans were sterilized between 1928 and 1972 under the Alberta Sterilization Act, which was repealed in June 1972. By the end of the year, the Alberta Government had settled all outstanding sterilization claims.

The law provides a variety of protections and rights for the disabled and specifically prohibits discrimination against disabled persons in employment, education, or in the provision of public services. Sexual exploitation of persons with disabilities in situations of dependency is a criminal offense. The law requires employers and service providers to accommodate special needs of disabled persons, unless it constitutes an undue hardship, and mandates access to buildings for the disabled. The Government has instituted programs to help the disabled join the work force, but they continued to experience more difficulties in getting and retaining employment than those without disabilities.

*Indigenous People.*—The treatment of aboriginal people continued to be one of the most important human rights problems facing the country. Disputes over land claims, self-government, treaty rights, taxation, duty-free imports, fishing and hunt-

ing rights, and alleged harassment by police continued to be sources of tension on reserves. Aboriginal people remain underrepresented in the work force, overrepresented on welfare rolls and in prison populations, and more susceptible to suicide and poverty than other population groups.

The Charter of Rights and Freedoms specifically protects aboriginal rights, including those established by historical land claims settlements; aboriginal rights also are recognized in the Constitution and by the courts. Historical treaties with native groups in eastern Canada form the basis for the Federal Government's policies there, but the antiquated language and uncertain intent have resulted in extensive legal challenges to the Government's interpretation of treaty rights. Native groups in the west that never signed historical treaties continue to claim land and resources, and many continue to seek legal resolution of outstanding issues. As a result, the evolution of the Federal Government's policy toward aboriginal rights, particularly land claims, has been linked closely to legal challenges, including 45 Supreme Court decisions.

In 1998 the Government established the Aboriginal Action Plan, a "long-term, broad-based" policy approach to promote the quality of life of aboriginal people and promote self-sufficiency. According to the Department of Indian and Northern Affairs, the Government spent \$4.7 billion (Can \$7 billion) on aboriginal programs during the year, which included the Aboriginal Action Plan and spending from 12 different departments. Since 1999

16 specific claims have been settled, and 70 comprehensive land claims have been negotiated across the country. After years of negotiations, the Federal and provincial governments concluded a modern day treaty with the Nisga'a people of British Columbia, who received claim to tribal lands, fishing and timber rights, limited self-government, and other economic benefits. The Federal Government continued to be involved in self-government negotiations with over 350 First Nations, and 6 agreements were in final or advanced stages of negotiations at year's end. Professional development and fiscal accountability projects further support aboriginal self-governance.

In response to court decisions over the past few years, the Government continues to work at resolving a variety of issues, including fishing rights in Atlantic Canada. Disputes over native fishing rights in Atlantic Canada continued after a 1999 Supreme Court ruling on the Marshall case which interpreted centuries-old treaties to allow First Nations to earn a moderate livelihood from natural resources, in compliance with government regulations that promote conservation and protect others who depend on the same resource. The Federal Government negotiated interim fishing agreements with 29 of the 34 native communities in Atlantic Canada, but the Burnt Church First Nation in New Brunswick and 4 other native communities in Nova Scotia have refused to sign the interim agreements and have been accused of contravening federal regulations by fishing for lobster out-of-season. Other test cases that involve aboriginals being tried on charges of illegally harvesting timber on Crown land continued in the court systems in New Brunswick and Nova Scotia. Court cases also continue in Quebec over timber resources.

During the year, the Federal and British Columbia governments concluded a treaty with the Nisga'a people who live in northwestern British Columbia. The treaty gave the Nisga'a control over 765 square miles of tribal lands, a cash settlement, fishing and timber-cutting rights, and certain rights of self-government. The treaty ended a range of special tax breaks and other benefits available under previous arrangements. The treaty was ratified by the Nisga'a people in November 1998 and by the provincial legislature in the spring of 1999. It was debated and passed by Parliament in December 1999. Although the British Columbia legislature ratified the treaty, two groups expressed their intention to challenge the treaty in court. These legal challenges include one from a political party that contends that the treaty should have been submitted to a referendum and one from the Gitanyow, an aboriginal band located near the Nisga'a, who contend that the treaty awarded more than 85 percent of their traditional tribal lands to the Nisga'a. At year's end, neither case had made legal progress.

The Stoney reserve west of Calgary gave up control of its finances to federal Indian Affairs officials in 1997, following widespread allegations of political corruption, financial mismanagement, sexual assaults, and abuses connected with social service agencies. After a 2-year probe, the RCMP concluded that no criminal charges would be made, and that instead, the problem with reserve finances was managerial in nature. Stoney Reserve corrected the situation and put its finances back in order. Of the 611 First Nations, 25 have their finances managed by a private accounting firm.

Quebec's Indian people remain overwhelmingly opposed to separation from Canada and deeply distrust the separatist government of the province. Despite the Quebec Prime Minister's recent overtures to the leaders of the Cree and Inuit nations,

surveys indicate that most of Quebec's 60,000 Indians would favor partition of the province in the event of Quebec's separation from Canada. Indian leaders maintain that a sovereign Quebec would treat Indians as another ethnic minority instead of as sovereign nations within the territory of the province. To address these sentiments and respond to a pending lawsuit, in 1998 the Quebec government agreed with the Cree and Mohawk tribes to initiate negotiations regarding longstanding grievances over timber resources, public rights of way on tribal lands, and management of development in the James Bay region. In March 1999, Quebec gave the Mohawks increased fiscal rights and powers. In June 1999, the first summit in 11 years between Quebec's First Nations and the provincial government was held to establish a permanent policy forum to resolve ongoing issues. During 1999 the Government focused on negotiations over a commission to set up a political entity (Nunavik) for Quebec's Inuit. The commission, in accordance with an agreement signed in November 1999, has Inuit, Quebec, and federal representatives. In September the James Bay Crees challenged the authority of the Nunavik Commission on the basis of overlapping land claims. In December the Commission postponed delivering its final report to the federal and provincial governments, stating that it needed more time and formally requested an extension of its mandate to the end of March 2001.

In May 1999, representatives of the Government of Newfoundland and Labrador, the Federal Government, and the Labrador Inuit Association initialed a land claims agreement for the Inuit. The plan provides for land, water rights, self-government, and an economic development plan that includes sharing revenues from subsurface developments. The Federal Government negotiated interim fishing agreements with 29 of the 34 native communities in Atlantic Canada, but the Burnt Church First Nation in New Brunswick and 4 other native communities in Nova Scotia have refused to sign. As a result, they have been accused of contravening federal regulations by fishing for lobster out-of-season.

In September 1999, the Supreme Court overturned the conviction of Nova Scotia aboriginal Donald Marshall for catching and selling fish eels out of season and without a license. In doing so, the court ruled that the 18th century treaties between the aboriginals and the British Crown gave the First Nations rights not accommodated by modern fishery regulations. The Court ruled that the Federal Government must give treaty beneficiaries access to the fisheries sufficient to enable them to earn a moderate livelihood. The Court also found that this right is subject to regulation and subsequently reemphasized this point in a separate explanation of its decision. There was some violence against aboriginals by nonaboriginals, following aboriginal efforts to exercise their new rights by trapping lobsters in October prior to the normal season. The Supreme Court's decision to interpret the 18th century treaties liberally has encouraged aboriginals involved in a number of court cases seeking access to economic benefits from natural resources such as logging, mining, and energy.

The Supreme Court's clarification of the Marshall case ruled out the possibility of aboriginals using the case to gain commercial rights in the forestry sector. However, test cases now are progressing through the court systems in New Brunswick and Nova Scotia that involve aboriginals being tried on charges of illegally harvesting timber on Crown land.

*Religious Minorities.*—The League for Human Rights of B'nai Brith in Canada reported that there were 267 incidents of anti-Semitism in 1999—an 11 percent increase from 1998. An increase in acts of vandalism contributed to the rise in incidents, in contrast to a steady decrease in previous years. The League continues to express concern over the growth of anti-Semitic activity on the Internet. In October the Human Rights Tribunal examined the activities of one such web site (see Section 2.a.).

In October and November, Jews were subjected to a wave of attacks that community leaders said was unprecedented. During a 6 week period beginning on October 1, about 45 anti-Jewish incidents—arson, assaults, verbal abuse and death threats—were recorded. Many Jewish leaders complained about what they described as a lukewarm response from government officials at all levels.

*National/Racial/Ethnic Minorities.*—The narrow defeat of the 1995 Quebec sovereignty referendum left unresolved the concerns of French-speaking Quebecers about their minority status in Canada, while sharpening the concerns of English-speaking Quebecers about their minority status. The separatist Parti Quebecois provincial government of Quebec stated that it would hold another sovereignty referendum only under winning conditions. The Supreme Court ruled in August 1998 that a unilateral declaration of independence would be illegal, but that the Federal Government and other provinces would be obligated to negotiate Quebec's separa-

tion if a clear majority of Quebecers voted to change their relationship with Canada on the basis of a clearly phrased referendum question (see Section 3).

Some English-speaking and native groups in Quebec assert the right to keep parts of Quebec in Canada in the event that Quebec declares independence. Despite personal meetings and other overtures by Quebec's Prime Minister to aboriginals and the English-speaking community, both groups remain distrustful of the separatist government of Quebec. Many members of these communities fear that their rights would be infringed by a sovereign Quebec.

The Constitution protects the linguistic and cultural rights of minorities. Despite Canada's federal policy of bilingualism, English speakers in Quebec and French speakers in other parts of Canada generally must live and work in the language of the majority.

In January the Supreme Court upheld an appeal by francophones who had been denied a French-language school in their community and forced to bus their children 57 minutes to another school. The Court ruled that the percentage of French language students in the community who potentially could attend a French language school (rather than the actual number of students who desired to attend one) met the requirements to establish such a school, and therefore the community was obligated constitutionally to provide one. In making its ruling, the Supreme Court stated that the Appeals Court erred (among other reasons) by not considering which services would best encourage the flourishing and preservation of the French language minority.

Quebec's language law restricts access to publicly funded, English language schools through grade 11 to children whose parents were educated in English in Canada and to short-term residents. The Quebec courts heard two cases challenging this law. In June the Montreal Superior Court heard a suit brought against the Quebec government by 10 francophone families for the right to send their children to anglophone schools. Another case was brought by a group whose native tongue is neither French nor English, who alleged that the law restricting English-language schools to children whose parents were educated in English in Canada is discriminatory. At year's end, both cases were pending.

In October three coffeehouses with English names were firebombed, allegedly in an attempt to force them to change their names to French. A man associated with a group that aims to eliminate the use of English in Quebec was arrested for the bombings and was denied bail prior to his trial.

The English-speaking minority of Quebec, representing 9 percent of the population of the province and 16 percent of the population of the city of Montreal, continues to protest restrictions placed on English-language use. In 1997 the Quebec provincial government reestablished a French-language inspection office that had been abolished in 1993. Quebec's language law also stipulates that French is the working language of most businesses and must predominate in bilingual commercial signage. However, in October 1999, a Quebec court judge struck down a key section of the province's language law that requires French lettering to be twice as large as English lettering on commercial signs, stating that French is no longer in jeopardy in Quebec. In April the Quebec Superior Court overturned the lower court decision, ruling that the lower court erred by finding that the Quebec government had the burden of proving that French is still in jeopardy in Quebec. The Superior Court stated that the lower court should have found that the defendant had the burden of proving that French is no longer in jeopardy in Quebec. The defendant has appealed the Superior Court ruling. English speakers also expressed concern over the increasing scarceness of health services and public schooling in their language.

Provinces other than Quebec often lack adequate French-language schooling and health services, which is of concern to local francophones, although French-language schools and French immersion programs are reported to be thriving in all three prairie provinces.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—Except for members of the armed forces, workers in both the public and private sectors have the right to associate freely. The Labor Code protects these rights for all employees under federal jurisdiction, while provincial legislation protects all other organized workers.

Trade unions are independent of the Government. Of the civilian labor force, approximately 29.5 percent is unionized.

All workers have the right to strike, except for those in the public sector who provide essential services. The law prohibits employer retribution against strikers and union leaders, and the Government enforces this provision.

Labor action, including strikes, occurred throughout the country during the year. Notable strikes included: Inside Workers strike by clerical staff, social-work staff,



tax collectors, health inspectors, and public nurses in the city of Toronto, nurse and federal prison guard strikes in Alberta, and forestry and hotel worker strikes in British Columbia.

Unions are free to affiliate with international organizations.

*b. The Right to Organize and Bargain Collectively.*—Workers in both the public (except for some police) and the private sectors have the right to organize and bargain collectively. While the law protects collective bargaining, there are limitations, which vary from province to province, for some public sector workers providing essential services.

The law prohibits antiunion discrimination and requires employers to reinstate workers fired for union activities. There are effective mechanisms for resolving complaints and obtaining redress.

All labor unions have full access to mediation, arbitration, and the judicial system.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—Forced labor, including that performed by children, is illegal, and it generally does not occur; however, women and children were trafficked for the purposes of commercial sexual exploitation (see Sections 5, 6.d, and 6.f.).

*d. Status of Child Labor Practices and Minimum Age for Employment.*—Child labor legislation varies from province to province. The Federal Government does not employ youths under 17 years of age while school is in session. Most provinces prohibit children under age 15 or 16 from working without parental consent, at night, or in any hazardous employment. These prohibitions are enforced effectively through inspections conducted by the federal and provincial labor ministries. Education is compulsory nationwide through age 15 or 16, depending upon the province.

The Government prohibits forced and bonded child labor and generally enforces this prohibition effectively; however, children were trafficked for purposes of commercial sexual exploitation (see Sections 5, 6.c., and 6.f.).

*e. Acceptable Conditions of Work.*—Standard work hours vary from province to province, but in all provinces the limit is 40 or 48 a week, with at least 24 hours of rest.

Minimum wage rates are set in each province and territory, and range from \$3.65 to \$4.77 (Can \$5.50 to Can \$7.20) per hour. Ontario and Alberta have a minimum wage rate for youths lower than their respective minimums for adult workers. The minimum wage does not provide a decent standard of living for a worker and family. A family whose only employed member earns the minimum wage would be considered below the poverty line.

Federal law provides safety and health standards for employees under federal jurisdiction, while provincial and territorial legislation provides for all other employees. Federal and provincial labor departments monitor and enforce these standards. Federal, provincial, and territorial laws protect the right of workers with “reasonable cause” to refuse dangerous work and to remove themselves from hazardous work conditions.

*f. Trafficking in Persons.*—The law does not prohibit trafficking in persons; however, the Government prosecutes such offenses as violations of immigration policies. The Government is conducting a legislative review of the Immigration Act and introduced legislation that specifically makes trafficking an offense punishable by fine or imprisonment, but the Senate had not passed it by year’s end. The country is primarily a transit and destination point for trafficking in persons. There have been several widely reported cases of smuggling and trafficking, including hundreds of Chinese who arrived illegally by ship in British Columbia during the summer of 1999 (see Section 2.d.).

Press reports indicate that over the past 10 years almost 15,000 Chinese have entered Canada illegally. Many of these illegal immigrants have paid large sums to be smuggled to Canada and are indentured to their traffickers upon arrival. Almost all work at lower than minimum wage and use most of their salaries to pay down their debt at usurious interest rates. The traffickers (snakeheads) use violence to ensure that their clients pay and that they do not inform the police.

Asian women and girls who are smuggled into Canada often are forced into the sex trade. Traffickers use intimidation and violence, as well as the illegal immigrants’ inability to speak English, to keep these victims from running away or informing the police.

Vancouver and Toronto serve as hubs for organized crime groups that deal in trafficking in persons, including trafficking for prostitution. East Asian crime groups have targeted Canada, and Vancouver in particular, because of lax immigration laws, benefits available to immigrants, and the proximity to the U.S. border.

Canadian and Honduran officials are investigating the ongoing problem of Honduran youths being smuggled into Canada who are being used by Honduran drug traffickers to sell drugs. In January Canadian authorities arrested dozens of small-time Central American drug dealers including many Honduran minors. In February the press reported that Honduran authorities were working to repatriate those minors.

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## CHILE

Chile is a multiparty democracy with a constitution that provides for a strong executive, a bicameral legislature, and a separate judiciary. Approved by referendum in 1980 and amended in 1989, the Constitution was written under the former military government and establishes institutional limits on popular rule. President Ricardo Lagos, of the Socialist Party, won a close runoff election on January 16 against center-right candidate Joaquín Lavín of the Alliance for Chile coalition. Lagos took office on March 11, succeeding Christian Democrat Eduardo Frei. International and domestic observers found both the 1999 election and the subsequent runoff to be free and fair. Both the current and former presidents are members of the "Concertación" coalition of political parties. The National Congress consists of 120 deputies and 49 senators; this includes nine designated senators plus two former presidents who are senators-for-life. The government coalition of four major parties controls the lower house and, following the suspension of two conservative senators including former president Augusto Pinochet, counts a slim majority in the Senate. Continued turnover in the court system has reduced the number and influence of military-era appointees over the constitutionally independent judicial branch to the point that there was very little influence in the administration of justice.

The armed forces are constitutionally subordinate to the President through an appointed civilian Minister of Defense but enjoy a large degree of legal autonomy. Most notably, the President must have the concurrence of the National Security Council, which comprises military and civilian officials, to remove service chiefs. The Carabineros (the uniformed national police) have primary responsibility for public order, safety and border security. The civilian Investigations Police are responsible for criminal investigations and immigration control. Both organizations—although formally under the jurisdiction of the Ministry of Defense, which prepares their budgets—are under operational control of the Ministry of Interior. Some members of the police committed human rights abuses.

The export-led free-market economy experienced its first recession after 15 consecutive years of expansion in 1999, when the economy experienced a decline of 1.1 percent in real terms with inflation at 2.3 percent. Economic growth for the year was 5.4 percent with inflation of 4.75 percent. Copper remained the most important export; salmon, forest products, fresh fruit, fishmeal, other minerals, and manufactured goods also were significant sources of foreign exchange. Unemployment stood at 8.3 percent at the end of the year. From 1987 to 1998, the percentage of the population living below the poverty line decreased from 45 to 21.7 percent. Annual per capita gross domestic product was approximately \$4,700.

The Government generally respected its citizens' human rights; however, problems remained in some areas. The most serious involved a death in police custody, police mistreatment, use of excessive force, and physical abuse in jails and prisons. The due process rights of detainees were not always respected. Discrimination and violence against women and children continue to be problems. Indigenous people remain marginalized. Despite ongoing attempts to change the labor code, limitations on fundamental worker rights persisted. Child labor is a problem in the informal economy.

During the year, the Government, primarily the judiciary, took significant steps to allow for the investigation of human rights abuses committed during the former military government, and to bring those accountable in certain cases to justice. The bulk of the human rights abuses under the military regime occurred between 1973 and 1978, although a number took place after this period. In its August 1999 ruling to uphold the removal of former President Augusto Pinochet's congressional immunity, the Supreme Court ruled that Chile's Amnesty Law could only be applied after a crime had been investigated and prosecuted. At year's end, the Defense Ministry-sponsored Human Rights Roundtable Dialog, comprising members of the armed services, religious groups, human rights groups, and NGO's, was preparing to make public information on the fate of some of the persons who were killed or who disappeared while in official custody during the Pinochet regime; however, military authorities continued during the year to resist a full accounting of the fate of those

who were killed and disappeared. Unlike in previous years, the judiciary appeared not to interfere in or stifle cases against alleged human rights abusers.

In October 1998, the United Kingdom detained Pinochet pending resolution of a Spanish extradition request on charges of genocide and murder. On March 2, after considerable legal action and a series of court rulings, Home Secretary Jack Straw denied Spain's request on the basis of medical exams indicating that Pinochet was unfit mentally and physically to defend himself against the charges. On March 3, the British authorities freed Pinochet and he returned to Chile. He faces charges in over 200 cases, including charges of aggravated homicide, in Chilean courts. The investigation of the most prominent of these cases, known as the "Caravan of Death" case, led to the petition to remove Pinochet's immunity and the subsequent effort to indict him.

#### RESPECT FOR HUMAN RIGHTS

##### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Political and Other Extrajudicial Killing.*—There were no reports of political killings or other extrajudicial killings during the year; however, one person died under yet to be explained circumstances while in police custody.

On January 5, Carlos Antonio Millaman Munoz was detained on charges of aggravated robbery. According to the Corporation for the Promotion and Defense of Human Rights (CODEPU), on January 6, the authorities permitted family members and a friend a visit at the headquarters of the Investigative Police in the Santiago suburb of La Florida. Millaman was reportedly in bad physical condition and feared for his life. The same day he was transferred to the El Salvador hospital where he died later in the day. At the end of the year, the case was still being investigated.

A number of cases from previous years in which the police were accused of extrajudicial killings due to excessive use of force or mistreatment of prisoners while in custody remained under investigation or pending resolution of appeals. These include the case of University of Tarapaca student Daniel Menco Prieto, who police shot and killed during a May 1999 student demonstration.

No information was available regarding the case of Jonathan Moya Jara, whose partially clothed body was found with its head buried in the sand in August 1999. In September 1999 the authorities arrested two Carabineros who had allegedly detained the victim.

No information was available in the case of Raul Palma Salgado, who died in police custody in 1998 after police allegedly tortured him. In 1999 a court sentenced four police officers to 10 years in prison for his death, and their appeal was pending at the end of 1999.

The case of Claudia Alejandra Lopez, who was shot under unclear circumstances during a 1998 demonstration in Santiago, also was inactive. No new information was available on the case of the September 1989 murder of leftist leader Jecar Nehgme, which was reopened in November 1998 when new evidence was discovered.

While former President Pinochet was in the United Kingdom, family members of victims filed numerous charges in Chile against him for deaths and disappearances during the period of military rule. Of these, one concerned the 1973 disappearance of 19 persons in a case known as the Caravan of Death. On August 8, the Supreme Court confirmed a Court of Appeals ruling lifting Pinochet's parliamentary immunity in this case. The Supreme Court's decision stated that "the true purpose of an immunity proceeding is to decide whether there is probable cause against a congressman charged with a crime" and, according to the Code of Criminal Procedure "there is probable cause when evidence is discovered against a congressman that would warrant his arrest." Subsequently, the prosecuting judge ordered psychiatric exams as required by law for defendants over age 70. Pinochet's lawyers appealed the decision, arguing that general physical exams also should be required. At year's end, the prosecuting judge had ordered psychiatric and neurological exams and set a date to take Pinochet's deposition, both steps required by law, which would ultimately pave the way for an indictment and arrest order. At year's end, over 200 cases concerning human rights violations had been filed in the courts against Pinochet.

The Supreme Court decision on Pinochet also contained guidelines calling for full investigation of cases of deaths and disappearances that are likely to fall under provisions of the Amnesty Law or that potentially are subject to the statute of limitations. The Court stated that amnesty is not applied to crimes in the abstract, but rather to individuals found guilty of a crime. Likewise, the statute of limitations should be applied only after the guilty party has been identified and the courts determine that no impeding factors, such as subsequent crimes by the accused are relevant. Previously, investigations into human rights abuses during the 1973-78 pe-

riod had been impeded because the cases were thought to fall automatically under the Amnesty Law and the statute of limitations. By 1989 this interpretation already had begun to erode in the courts. The new guidelines make it possible to open investigations into all types of crimes committed during the 1973–78 period. Following these guidelines, the judge investigating the Caravan of Death case expanded the charges against Pinochet to include aggravated homicide.

In January a military tribunal changed the charges in the case of Operation Albania—the June 1987 killings of 12 Manuel Rodriguez Patriotic Front (FPMR) members—against former National Intelligence Center (CNI) Director Hugo Salas Wenzel from being an author of the crime to concealing it. The military court dropped indictments against former CNI Sub-directors retired General Humberto Leiva Gutierrez and Brigadier Marcos Derpich Miranda, Air Force Captain Hernan Miguel Carmona, and Inspector Jose Morales Morales of the Investigations Police and changed the charges against the 15 other individuals accused in the case from kidnaping to illegal detention. The court ratified the thesis of the investigating judge that the crime under investigation is homicide, thereby affirming that there was never an armed confrontation as the CNI had alleged. At year's end, the investigation and legal proceedings continued.

Acting on a petition by the Council for the Defense of the State (the official entity charged with the defense of the State's legal interests), the Criminal Chamber of the Supreme Court on June 1 transferred the Operation Albania case from the military tribunal to the Court of Appeals. Investigating Judge Milton Juica, who had been handling the case under the military tribunal, was reappointed as investigating judge.

No new information was available regarding the trial of eight CNI agents who authorities charged in November 1999 in the case of journalist Jose Carrasco, who died in 1986. Several of the officers charged in 1999 were also under investigation regarding Operation Albania.

There was little progress in the investigation of Operation Condor, an undercover operation in which several military governments in Latin America cooperated to kill leftist opponents. In 1999 Spanish Judge Baltazar Garzon and a colleague collected evidence and took testimony regarding human rights violations in Chile and Argentina during the military dictatorships. The Social Aid Foundation of Christian Churches (FASIC) reported that on July 2, Argentine judge Maria Servini de Cubria (the same judge in charge of the Prats case) handed over "extrajudicially" numerous antecedents regarding Operation Condor to Chilean Judge Juan Guzman in connection with the 126 (at that time) cases against Pinochet pending before Guzman's court.

In 1999 an appeals court reopened the case of the 1982 killing of labor leader Tucapel Jimenez. In 1998 investigating judge Sergio Valenzuela Pinto had closed the case, ruling that there was insufficient evidence to bring anyone to trial. Acting on a petition by the Council for the Defense of the State, in April 1999 the Supreme Court replaced Valenzuela Pinto, who had been criticized for his handling of the case, with judge Sergio Munoz Gajardo.

Judge Munoz led the Appeals Court to order the detention of 12 persons for the crimes, including retired army general and former head of Army Intelligence (DINE) Ramon Arturo Alvarez Scaglia. Munoz subsequently charged several others, including retired army general and former DINE director Hernan Ramirez Rurange, who is accused of helping one of the suspects flee the country. He also indicted former Auditor General of the Army, retired General Genera Gerardo Torres Silva. Another prominent official among the accused, former CNI director and retired general Humberto Gordon died of a heart attack in June. Munoz dropped charges against several other suspects. In November an investigative judge indicted active duty Brigadier General Hernan Ramirez Hald in the Tucapel Jimenez case; the indictment was the first ever of an active duty general. At year's end, of the 17 persons charged, the authorities had released 2 on bail, detained 14, and were still seeking 1 person.

The family of Carmelo Soria, a Spanish citizen working for the United Nations killed in Santiago on July 14, 1976, continues to seek compensation from the Government in the amount of approximately \$50 million (2.7 billion pesos) and has asked the Audiencia Nacional de Madrid to issue an arrest warrant for Pinochet, retired General Manuel Contreras, and others.

In November an Argentine court found Chilean intelligence agent Enrique Arancibia Clavel guilty and sentenced him to life in prison for his role in the 1974 car bombing in Buenos Aires that killed former Chilean army chief Carlos Prats and his wife Sofia Cuthbert. Arancibia Clavel had filed an appeal, which was pending at year's end. The case had been reopened in 1992 as a result of a petition filed by the Prats family. An Argentine appeals court had ruled in October that the Prats

killing was a "crime against humanity" and, as such, was not subject to the statute of limitations. The judge also requested the extradition of Pinochet and other former military officers and one civilian in connection with the Prats case. At year's end, the Chilean Supreme Court was considering the extradition request.

On December 7, the family of Charles Horman, whom security forces killed in Santiago in 1973, filed a criminal complaint requesting that Judge Juan Guzman open a criminal investigation into his death. The family also filed a petition requesting that the Supreme Court appoint a special prosecutor to hear the case. At year's end, the Supreme Court had not ruled on the petition and the case remained before Judge Guzman.

On July 20, the Seventh Chamber of the Court of Appeals of Santiago sentence two former CNI officials and a DINE official to life imprisonment in the related Juan Alegria Mundaca case. The Supreme Court upheld that decision on appeal.

Families of persons who suffered, died, or disappeared while in government custody continue to file new claims for compensation. In June the Group of Former Political Prisoners of the Region of Valparaiso filed a claim with the regional appeals court seeking damages for illegal detention and deprivation of liberty. In April a Santiago court decreed that the Government should pay about \$222,000 (125 million pesos) to two children of Doctor Enrique Paris for damages resulting from the 1973 death and disappearance of their father. Another Santiago court ordered the Government to pay approximately \$180,000 (100 million pesos) to the family of Arsenio Poupin Ossiel. A court also ordered a payment of approximately \$430,000 (240 million pesos) to the family of Eduardo Paredes. All three disappeared after being taken into custody by the military following the September 11, 1973, assault on the presidential palace. In August the courts awarded approximately \$500,000 (300 million pesos) to the widow and three children of Luis Anibal Manriquez, detained and killed in November of 1973. In October the courts awarded \$400 million (225 million pesos) to Carmen Gloria Quintana, who received burns on her body after being detained by a military patrol in 1986. The Council for the Defense of the State was considering whether to appeal some of these awards at year's end.

In October 1999, Italy requested the extradition of retired General Manuel Contreras and another DINA (the army intelligence branch during the military regime) official to serve prison sentences for their role in the attempted murder of Christian Democrat Party leader Bernardo Leighton, which occurred in Italy in 1975. Chile has no extradition treaty with Italy. In October Supreme Court President Hernan Alvarez rejected the recommendation of the investigating judge that the Government either extradite the two former officials or try them in country for the crime. At the end of the year, the Supreme Court denied the extradition request principally on the grounds of insufficient evidence and lack of due process because the two persons had been tried and convicted in Italy in absentia.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

On June 13, a "Dialog Table" of military officers and human rights attorneys signed an agreement that established a mechanism for gathering new information on persons who had disappeared during the military regime. Under a law approved in June, specific military officers and community leaders were designated to receive information on the whereabouts of those who "disappeared" during the military regime. Information was received in the strictest confidence during a 6-month period. At year's end the armed forces and the Carabineros were preparing to turn over information on the fate of 200 persons executed during the Pinochet regime. The courts have taken steps to try to locate bodies identified by the Dialog Table process and are deciding what legal actions should be taken next. The FASIC, the CODEPU, and other human rights organizations have several denial-of-justice cases pending before the Inter-American Commission on Human Rights (IACHR) regarding previously closed disappearance and execution cases (see Section 1.a.). Denial of justice cases based on application of the amnesty law also have been filed with the U.N. Commission on Human Rights (UNCHR).

Investigations of military-era detentions and disappearances of persons at Colonia Dignidad (now called "Villa Bavaria"), a secretive German-speaking settlement 240 miles south of Santiago, intensified during the year. Paul Schaefer, who immigrated from Germany in 1961 with 300 followers, founded the 34,000-acre enclave. In April 1999, investigating judge Juan Guzman issued a detention order against the 79-year-old Schaefer for the kidnaping and disappearance in 1974 of Alvaro Vallejos in the vicinity of Colonia Dignidad. Schaefer, also wanted by the authorities on other charges, remained a fugitive at year's end. During the year the enclave was searched several times. In October the authorities confiscated files and arrested Schaefer's deputy Gerhard Muecke in connection with Vallejos' disappearance. The Government issued an order to expel Muecke and two other German citizens whose residency permits expired. Muecke would stand trial before being expelled.

In January 1985, Boris Weisfeiler disappeared near the Colonia Dignidad under circumstances that have yet to be fully clarified. The case was reopened at the beginning of the year and is among those being investigated by Judge Guzman.

On August 16, the Penal Chamber of the Supreme Court ruled that the Fourth Criminal Court of Santiago had jurisdiction over the case of the disappearance of Jose Manuel Ramirez Rosales, arrested by agents of the DINA in 1974. In May 1999, the authorities indicted former Army Sargent Major and DINA agent Basclay Humberto Zapata Reyes ("El Troglo") in this case.

Of the 1,156 persons who disappeared under the military regime, the remains of 985 have yet to be found. The government agency in charge of the compensation program for the families of those executed or disappeared under the military regime recognizes 3,197 victims of the Pinochet era. These include 2,095 victims in which circumstances of death have been established and 1,102 cases in which the persons disappeared. During the year, monthly pension benefits, distributed to an average 3,441 eligible survivors (spouse, mother or father, and children), were approximately \$11.3 million (6.3 billion pesos). Since 1992, the program has distributed well over \$100 million (57.8 billion pesos). Survivors receive pensions, educational benefits and other assistance.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution forbids the use of illegal pressure on detainees; however, the CODEPU has received reports of abuse and mistreatment by both the National Police and the Investigations Police. When requested by other human rights organizations or family members, CODEPU lawyers visit detainees during the interrogation (see Section 1.d.) and represent some suspected terrorists in court. The CODEPU continues to investigate alleged use of excessive force against detainees. The Minister of Interior asks the courts to conduct independent investigations of credible complaints of police abuse, but such investigations often do not result in arrests, due in part to the reluctance of judges to pursue the issue vigorously.

The Human Rights Office of the Metropolitan Legal Aid Office, an arm of the Justice Ministry, released a report in March 1999 noting it had assisted 815 persons in 1998, twice the number as in the previous year. The report further stated the Legal Aid Office presented 70 cases to civilian or military courts in 1998; 42 cases were filed in 1997. Of the more recent cases, 48 were lodged against national police officers, while 7 cases involved the Investigations Police and 6, military personnel; the remainder involved various civilian government authorities and private security guards.

In 1998 a law entered into effect that clarified the illegality of any use of force against persons detained by the police. The law provides that if a member of the police force uses "torture or unlawful coercion," either physical or mental, or orders them to be applied, or commits them against a person under arrest or detention, the officer would be sentenced to imprisonment. Officers who know about the abuse and have the "necessary power and authority" to prevent or stop it also would be considered accessories to the crime if they fail to do so. The CODEPU has found that this law had an important impact on the conduct of the Judicial Police, but little impact so far on Carabineros. Beginning in 2001, courses in human rights are expected to be part of the core curriculum in the Carabinero police academies for both rank and file as well as officers.

Human rights groups continue to claim that military recruits sometimes are mistreated. The Commission on Juvenile Rights (CODEJU), a nongovernmental organization (NGO), claimed in November 1999 that it had received 380 complaints of recruit mistreatment in the previous 5 years. This statement followed claims of mistreatment by recruits, lawsuits, and an investigation by the army that affirmed recruits' claims of mistreatment. There were three suicides among recent recruits in 1999 and one in 1998.

No new information is available regarding the case of 14 military conscripts who military officers reportedly beat during a military exercise in 1998. As of 1999, one corporal was awaiting trial in the case.

At year's end, the court of appeals had not yet ruled on the August 1997 filing by attorneys for Carmen Gloria Quintana that appealed efforts by the Government to set aside an award of approximately \$600,000 in compensation that the IACHR had recommended for Quintana in 1988. Army Captain Pedro Fernandez Dittus set fire to Quintana and her companion Rodrigo Rojas Denegri while they participated in a protest against the military regime in 1986. Rojas died 4 days later, while Quintana survived with severe and disfiguring injuries.

During the year, there were instances of violent confrontations between radical Mapuche groups and local landowners and representatives of logging companies in the southern part of the country (see Section 5). Most of the protests involved rockthrowing.

A Marxist-Leninist group claimed responsibility for a bomb that exploded on November 26 in front of the Colombian embassy in Santiago. The bombing resulted in damage to property, but no injuries.

Prisons are often overcrowded and antiquated. A fight among prison gangs that led to a fire and the death of seven prisoners caused a national debate on the overcrowding of prisons, which are unable to cope with a rapidly growing inmate population. At year's end, the number of prisoners averaged 163 percent of designed capacity. According to press reports, there were over 30,000 prisoners housed in 104 locations. Food meets minimal nutritional needs, and prisoners may supplement the diet by buying food. Those with sufficient funds often can rent space in a better wing of the prison. Although most reports state that the guards generally behave responsibly and do not mistreat prisoners, prisoners have complained to CODEPU about beatings.

Pretrial detainees are not generally held with convicted prisoners.

In 1999 a Santiago appeals court ruled that prison guards had used excessive force when moving maximum security prisoners in February of that year. Prison authorities appealed the finding, and the courts absolved the guards, ruling that the force used was not excessive.

Prison guards have been accused of using excessive force to stop attempted prison breaks. Although most reports state that the guards generally behave responsibly and do not mistreat prisoners, the CODEPU reported several instances of alleged mistreatment of prisoners and believes that many others go unreported. CODEPU is particularly concerned about the treatment of prisoners in maximum security prisons and prisoners with HIV/AIDS and mental deficiencies who often do not receive adequate medical attention. The Government announced plans to build 5 new prisons in 2001 capable of housing 8,000 prisoners.

Women are generally housed in separate facilities, which tend to be less crowded and with somewhat better conditions than men's prisons.

By law, juvenile offenders (those under the age of 18) are segregated from adult prisoners. According to the latest available figures, there were 6,630 minors in adult prisons in 1992 and 346 by the end of 1997 although this number increased to 422 by the end of 1998. The Government announced plans to build three juvenile detention centers in 2001.

The Government permits prison visits by independent human rights monitors.

*d. Arbitrary Arrest, Detention, or Exile.*—The authorities generally respect constitutional provisions for arrest and detention; however, detainees are not always advised promptly of charges against them nor granted a timely hearing before a judge. The Constitution allows civilian and military courts to order detention for up to 5 days without arraignment and to extend the detention of alleged terrorists for up to 10 days. The law affords detainees 30 minutes of immediate and subsequent daily access to a lawyer (in the presence of a prison guard) and to a doctor to verify their physical condition. The law does not permit a judge to deny such access; police authorities generally observe these requirements.

In practice, many detainees are not promptly advised of charges against them, and they are not granted a timely hearing before a judge. At the end of 1999, 8 percent of the general prison population of 24,791 was under investigation but not charged with a crime; 45 percent were charged with an offense and were awaiting trial or had been convicted and were awaiting sentencing; and 48 percent were serving sentences.

A 1998 law requires police to inform those detained of their rights, to expedite notification of the detention to family members, and eliminated the ability of police to demand identification from or stop persons bases solely on suspicion. The law also deals with physical abuse by police against detained persons.

The Constitution provides for the right to legal counsel, but this is a reality only for those who can afford to pay. The Constitution allows judges to set bail.

There were no cases of forced exile.

*e. Denial of Fair Public Trial.*—The Constitution provides for a judicial system independent of the other branches of government; continued turnover in the court system has reduced the number of military-era appointees over the constitutionally independent judicial branch to the point that there they had very little influence over the administration of justice.

Cases decided in the lower courts can be referred to appeals courts and ultimately to the Supreme Court. Criminal court judges are appointed for life. In 1997 constitutional reforms set 75 as the age limit for Supreme Court justices, gave the Senate the right to approve or disapprove presidential nominations to the Court, and increased court membership from 17 to 21. Of the 21 justices on the Supreme Court, 3 were appointed under the military regime. The Supreme Court prepares lists of nominees for the Supreme Court and appeals courts, from which the President

makes nominations. The Supreme Court continues to work with the other branches of government on broad judicial reform.

If formal charges are filed in civilian courts against a member of the military, including the National Police, the military prosecutor asks for jurisdiction, which the Supreme Court has sometimes granted, although less often than in previous years. This is of particular consequence in the human rights cases from the period covered by the 1978 Amnesty Law. In addition, military courts have the authority to charge and try civilians for terrorist acts, defamation of military personnel, and sedition. Rulings by military tribunals can be appealed to the Supreme Court. Persons accused of terrorist acts and students arrested during demonstrations for damaging property or assaulting a police officer, are brought before military tribunals. On July 19 the Inter-American Court of Human Rights received a submission on behalf of 32 civilians convicted in military tribunals for violations of the Law on Terrorist Actions, Arms Control, and State Security. The plaintiffs argued that applying military criminal law to civilians violates the American Convention on Human Rights.

A 1997 judicial reform law created the post of Attorney General, with a 10-year term, and a related office that is expected to be in full operation by 2002. Congress passed enabling legislation for the Ministry in September 1999. The judicial reform law, which applies to criminal cases, provides that national and regional prosecutors investigate crimes and formulate charges, leaving judges and magistrates the narrower function of judging the merits of evidence presented to them. Training and administrative setup began in 1999, and implementation began in December with oral trials in 2 of the 13 political regions.

Based on the Napoleonic Code, the criminal justice system does not provide for trial by jury, nor does it presume innocence until proven otherwise. However, recent changes to the trial system, including the gradual adoption of oral trials, have moved the system away from its Napoleonic roots. Criminal proceedings are inquisitorial rather than adversarial. The Constitution provides for the right to legal counsel, but indigent defendants do not always receive effective legal representation. Indigent defendants, who account for the majority of cases, may be represented by law students doing practical training, on occasion by a court-appointed lawyer, or by a lawyer from the Government's legal assistance corporation.

There were no reports of political prisoners, although inmates in Santiago's maximum-security prison who have been convicted of terrorist acts routinely claim to be political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such practices, government authorities generally respect these prohibitions, and violations are subject to effective legal sanctions. A 1995 privacy law bars obtaining information by undisclosed taping, telephone intercepts, and other surreptitious means, as well as the dissemination of such information, except by judicial order in narcotics-related cases.

## *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the Government generally respect these rights in practice. However, human rights groups have criticized the existence and application of laws that allow government officials to prosecute journalists who insult or criticize them.

The press maintains its independence, criticizes the Government, and covers issues sensitive to the military, including human rights cases. Investigative journalism is infrequently practiced for both financial and political reasons, but recently on-line dailies are including such stories more frequently.

Two major media groups control most of the print media, which are largely independent of the Government. The State is majority owner of La Nacion newspaper, but it is not under direct government control. Electronic newspapers are emerging with distribution over the Internet.

The broadcast media also are largely independent of government control. The Television Nacional network is state-owned but not under direct government control. It receives no government subsidy and is self-financing through commercial advertising. It is editorially independent and is governed by a board of directors appointed by the President and approved by the Senate. Members reflect various political viewpoints, and the board encourages the expression of varied opinions over the network.

Under the State Security Law of 1958, it is a criminal offense to besmirch the honor of state institutions and their members and symbols, such as the Congress, the Supreme Court, the military services, the flag, and the President. Military courts have the authority to charge and try civilians for defamation of military personnel and for sedition, but their rulings can be appealed to the Supreme Court. Human Rights Watch (HRW) and the Inter-American Press Association have criti-



cized these restrictions on freedom of expression and information, as has the Organization of American States Special Rapporteur for Freedom of Expression, who visited the country in June 1999 and called for changes in the law.

Several cases have been brought against journalists under provisions of the State Security Law. In February the Supreme Court sentenced Jose Ale Aravena to a suspended prison sentence under the law for insulting former Chief Justice Servando Jordan in an article in *La Tercera* newspaper. HRW noted that the judge who issued the sentence also insulted and threatened Ale in public before releasing the verdict. In July, President Lagos pardoned Ale.

In April 1999, *The Black Book of Chilean Justice* by journalist Alejandra Matus, went on sale in Santiago. Former Supreme Court President Jordan, who was mentioned negatively in the book, immediately filed charges against Matus under the State Security Law, and an appeals court judge ordered all copies of the book seized from the publisher and book stores. The newspaper *La Tercera* and the Editorial Planeta publishing house subsequently placed the prohibited text on the Internet, using foreign servers, and the book was published in Argentina. It remains banned.

After becoming aware of the Jordan lawsuit, Matus left the country and sought and obtained political asylum abroad. The charges against her and seizure of the book were widely repudiated, including by the President and members of Congress. The IACHR adopted a resolution in October declaring that, if the alleged facts of the case are certain, they would constitute a violation of the freedom of expression. Nevertheless, the State Security Law has yet to be modified and, without a conviction, the President is unable to grant Matus a pardon, as he did in the case involving the journalist Jose Ale.

HRW reported that authorities charged journalist Paula Afani Saud with breaching the secrecy of a criminal investigation when she wrote articles in 1998 about an investigation by authorities into narcotics trafficking and money laundering. HRW noted that Afani refused to identify her sources.

however, the Roman Catholic Church continues to receive some preferential treatment. All denominations practice their faiths without restriction.

A 1999 law on religion, designed to bring other religious entities closer to the legal status enjoyed by the Catholic Church, went into effect in March. The new law bestows the same legal status that the Catholic Church previously enjoyed upon all other faiths. However, their status still can be challenged in court. Reflecting its historical position, the legal status of the Catholic Church cannot be challenged at all. The new religion law removed the ability of the State to dissolve religious entities by decree. Instead, this only can occur after a judicial review begun by a complaint filed by the semiautonomous council for the Defense of the State.

Many of the approximately two million Protestants, who represent about 12 percent of the population, assert the Government has discriminated against them. They cite the absence of Protestant armed forces chaplains, difficulties for pastors to visit military hospitals, and the predominantly Catholic religious education in public schools.

*d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights, and the Government generally respects them in practice. For minor children to leave the country, either alone or with only one of their parents, they must have notarized permission from nonaccompanying parent(s).

The law includes provisions for granting refugee and asylee status in accordance with the provisions of the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Government cooperates with the office of the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees. The issue of the provision of first asylum has not arisen.

There were no reports of the forced return of persons to a country where they feared persecution.

### *Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The Constitution provides for the right of citizens to change their government through periodic elections. There is universal suffrage for citizens 18 years of age and over. Free and fair presidential elections were held in December 1999, with a runoff in January. In the second round of elections, Ricardo Lagos narrowly defeated Joaquin Lavín with 52 percent of the vote to Lavín's 48 percent. Lagos led the center-left Concertación coalition that included his Socialist Party, the Christian Democratic Party, the Party for Democracy, and the Radical Social Democrat Party. Lavín was supported by the center-right Alliance for Chile coalition consisting of the Independent Democratic Union and the National Renewal party. The legislative branch, with the exception of 11 nonelected senators among its 49 members, is elected freely and is independent from the executive branch.

The Government still operates under some political restraints that the military regime imposed. Under the 1980 Constitution, various national institutions—including the President, the Supreme Court, and the National Security Council (the latter acting on nominations by the armed forces)—appoint an additional nine Senators (beyond those elected) to 8-year terms. In addition, former presidents Pinochet and Frei exercised their option to become senators-for-life.

The former military government wrote the 1980 Constitution, and amended it slightly in 1989 after losing a referendum on whether General Pinochet should stay in office as president. The Constitution provides for a strong presidency and a legislative branch with limited powers. It includes provisions designed to protect the interests of the military and the minority political opposition (currently the center-right coalition). These provisions include limitations on the President's right to remove the commanders in chief of the three armed services and the national police; an electoral system that gives the second-place party (or coalition) in each district disproportionate representation in Congress; and the provision for non-elected senators. In January the IACHR issued a resolution criticizing the existence of designated senators and senators-for-life and urged the Government to end the practice. In October a Senate Commission (including two designated Senators) unanimously approved a proposal that would abolish these positions starting in 2006, but at year's end Congress had not passed legislation codifying this proposal.

Women have the right to vote and are active in all levels of political life, including grassroots movements. Women are a majority of registered voters and of those who actually cast ballots; however, they are underrepresented in government and politics. There are 13 women among the 120 deputies, 2 women in the 49-seat Senate, and 5 women among the 16 cabinet ministers. No women currently serve as Supreme Court justices.

The approximately 1.2 million indigenous people have the legal right to participate freely in the political process, although relatively few are active politically. One member of Congress is of indigenous descent.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

Several human rights NGO's are active. The Chilean Human Rights Commission, an NGO, is affiliated with the International League of Human Rights. The FASIC is active on the full range of human rights issues. The CODEPU provides legal counsel to those accused of politically related crimes and to victims of human rights abuses. The Government cooperates with domestic NGO's efforts to investigate current accusations of human rights violations. Many international NGO's also follow human rights issues closely.

There were no confirmed reports of threats made against human rights activists during the year. An investigation into the burglary of the CODEPU offices in 1999 was inconclusive. No information was available regarding unconfirmed threats reportedly made against Rafael Castillo, who had been involved in investigations of human rights abuses associated with Operation Albania and other killings.

In May 1998, then-President Frei advocated the creation of a "national defender of citizens," a state body that would receive complaints about abuse of authority by government officials and agencies. The Lagos administration forwarded legislation to Congress in October to create this entity, but Congress had not passed the legislation by year's end.

*Section 5. Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status*

The Constitution provides for equality before the law and the Government generally respects these provisions. In 1999 Congress amended the Constitution to emphasize the principle of equality between men and women and now states that "persons are born free and equal in their dignity and rights." There are no laws that specifically prohibit discrimination based on race, sex, religion, or social status.

*Women.*—The most serious violations of women's rights involved sexual and domestic violence. The public is becoming increasingly aware of the extent of physical abuse of women. The National Women's Service (SERNAM), created in 1991 to combat discrimination against women, conducted courses on the legal, medical, and psychological aspects of domestic violence for police officers and judicial and municipal authorities. In a 1996 study conducted by SERNAM, the most recent that it has conducted, results showed that of 12,000 reports of domestic violence since the Law of Intrafamily Violence went into effect, only 1 in 5 accusations resulted in judicial action. The study also found that in nearly three-quarters of those cases, the accusation led to a positive change in the domestic situation regardless of the judicial outcome.

The courts may order counseling for those involved in intrafamily violence. In 1997 there were approximately 61,000 reports of domestic violence. The Citizens' Peace Foundation indicated that there were 1,052 cases of rape reported to the police in 1998, and 993 in 1997. Experts believe that a majority of rape cases go unreported. In July 1999, a new law took effect increasing the penalties for sexual abuse. The legislation includes clauses to facilitate proof of the crime and to protect the privacy and safety of the person making the charge. The new law also overturned 100-year-old legislation that permitted a man charged with rape to be released if he asked the victim to marry him and she accepted.

Legal distinctions between the sexes still exist. The law permits legal separation but not divorce, so those who wish to remarry must seek annulments. Since annulment implies that a marriage never existed under the law, former spouses are left with little recourse for financial support. A 1994 law created conjugal property as an option in a marriage, but some women saw this as a disadvantage, since the law on separate property (which still exists) gives women the right to one-half their husbands' assets but gives husbands no rights to assets of the wife. In the face of heavy opposition from the Catholic Church, the Chamber of Deputies approved a divorce bill in September 1997; the bill faces Senate opposition but was still on the legislative agenda at year's end.

A SERNAM study in 1997 found that the average earnings of female heads of household are 71 percent of those of male heads of household. Women with no schooling averaged a salary that was 87 percent of their male counterparts. The minimum wage for domestic helpers (who are thought to number 300,000 in what is probably the largest single category of working women) is only 75 percent of the standard minimum wage. Female heads of household with university training averaged 57 percent as much as their male counterparts. The Labor Code provides spe-

cific benefits for pregnant workers and recent mothers. Employers do not have the right to ask women to take pregnancy tests prior to hiring them. Legislation extending these benefits to domestic employees took effect in November 1998.

*Children.*—The Government provides free education through high school; education is compulsory from first through eighth grade.

Violence against children is a problem, albeit a declining one. A survey of eighth grade students by UNICEF comparing the incidence of mistreatment in the years 1994 and 2000 showed that in 1994, 34 percent of children had been subject to some form of serious physical violence. That number had declined to 25 percent this year. During the same period, those having suffered some sort of serious physical violence from their parents had fallen from 21.3 percent to 11.9 percent. Violence by the mother (21.3 percent) was almost twice as frequent as violence by the father (11.9 percent), and violence in low-income households (31 percent) almost double that in high-income households (16.3 percent).

A 1999 report by the National Minors Service (SENAME) noted that it had handled the cases of 5,453 maltreated children for the first 6 months of that year; 583 of these cases were judged severe enough to be presented to legal authorities. The SENAME reported that cases of abuse brought to its attention totaled 9,723 in 1998 and 7,676 in 1997. From the middle of 1998 to December of 1999, the SENAME brought to the courts 713 cases for child abuse, 314 for rape, 292 for sexual abuse, 79 for grave harm done to children, and 28 cases of homicide. Of the cases, 70 percent came to trial, of which 80 percent resulted in convictions. Beginning in 1997, the SENAME lawyers began receiving specialized training in child abuse cases, leading to a higher conviction rate of offenders according to the Director of the organization. A report from the La Morada Corporation for Women released in May 1999 estimated that there are 20,000 cases of sexual abuse of children every year.

A 1996 UNICEF report stated that 34 percent of children under 12 years of age experience serious physical violence, although only 3.2 percent of the victims of intrafamily violence reported to the National Police family affairs unit were below the age of 18. A 1994 law on intrafamily violence was designed in part to deal with this problem. According to UNICEF, some form of corporal punishment is used by one or both parents in 62 percent of households. UNICEF estimated that approximately 107,000 children between the ages of 12 and 19 are in the work force. A study by the Catholic Church estimated that some 50,000 children under age 15 are working (see Section 6.d.).

UNICEF estimated in June 1999 that there were roughly 10,000 child prostitutes between the ages of 6 and 18, up from 4,200 in 1995.

*People with Disabilities.*—A 1994 law promotes the integration of the disabled into society; the Government's National Fund for the Handicapped has a small budget to encourage such integration. The 1992 census found that 288,000 citizens said that they had some form of disability. The disabled still suffer some forms of legal discrimination; for example, blind persons cannot become teachers or tutors. Although a 1994 law requires that new public buildings provide access for the disabled, the public transportation system does not make provision for wheelchair access, and subway lines in the Santiago metropolitan area provide facilitated access for the disabled only in some areas.

*Indigenous People.*—Approximately 1.2 million persons identify themselves as indigenous. The Mapuches, from the south, constitute about two-thirds of the indigenous population, but there are small Aymara, Atacameno, Huilliche, Rapa Nui, and Kawaskhar populations in other parts of the country. A committee composed of representatives of indigenous groups participated in drafting the 1993 law that recognizes the ethnic diversity of the indigenous population and gives indigenous people a voice in decisions affecting their lands, cultures, and traditions. It provides for eventual bilingual education in schools with olence, althou lhe coun9ht3ves im9 A

In October the Chamber of Deputies allowed to lapse a proposed constitutional reform, pending since 1991, that would have recognized explicitly the existence of indigenous persons and the state's responsibility for encouraging development of indigenous culture. Also in October, a group of 200 Mapuches marched from Santiago to the National Congress in Valparaiso demanding land, more political rights, and ratification of International Labor Organization (ILO) Convention No. 169. That convention supports "the aspirations of indigenous people to exercise control over their own institutions, ways of life and economic development and to maintain and develop their identities, languages and religions, with the framework of the States in which they live." The marchers declared themselves satisfied with the response they received from the legislators.

In the first decision of its kind, a Temuco appeals court ruled in September 1999 that an indigenous employee fired from a municipal job had been discriminated against by her immediate superior. The court based its ruling on the Indigenous Law, which outlaws discrimination on the basis of "origin and culture."

Several Mapuche families continued to object to exchanging traditional lands for other property as part of the Ralco hydroelectric project. The eight families involved continued to object to ENDESA's effort to have them resettled. Land occupations and other violence by isolated Mapuche Indian groups against private forestry companies occurred through much of the year (see Section 1.c.).

The Government had not responded to suggestion from the U.N. Committee for the Elimination of Racial Discrimination made in August 1999. The Committee suggested that the Government apologize to and compensate indigenous people for their historical treatment, and explicitly outlaw racial and ethnic discrimination.

*National/Racial/Ethnic Minorities.*—The Country assimilated a major European migration in the 19th century and major Middle Eastern and Croatian migrations in the early part of the 20th century. Smaller racial and ethnic minority groups such as those of Asian descent and African-Chileans also can be found and experience some societal intolerance.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—Workers have the right to form unions without prior authorization and to join existing unions. The work force is estimated at 5.7 million persons, of whom 3.7 million are salaried. Union membership is approximately 655,000, or roughly 12 percent of the work force. Government-employee associations are provided with the same rights as trade unions; however, the law denies government employees the possibility of uniting with other workers or to benefit from joint actions, thus constituting an interference to their freedom of association. Police and military personnel and employees of state-owned companies attached to the Ministry of Defense may not organize collectively. Members of unions are free to withdraw from union membership.

The 1992 Labor Code permits nationwide labor centrals, and the Unified Workers Central (CUT), the largest and most representative of these, legalized its status in April 1992. Labor unions are effectively independent of the Government, but union leaders usually are elected from lists based on party affiliation and sometimes receive direction from party headquarters. Political activities or affiliations of unions or union officials are not restricted. Registering a union is a simple process.

Employees in the private sector have the right to strike; however, the Government regulates this right, and there are some restrictions on the right to strike. Public employees do not enjoy the right to strike, although government teachers, municipal, and health workers have struck in the past. The law proscribes employees of some 30 companies—largely providers of essential services (e.g., water and electricity)—from striking; it stipulates compulsory arbitration to resolve disputes in these companies. There is no provision for compulsory arbitration in the public sector. Striker replacements are permitted under certain circumstances.

Employers must pay severance benefits to striking workers and must show cause to dismiss workers. Employees who believe they have been dismissed unfairly or dismissed because of their trade union activities file complaints with the Ministry of Labor. However, even if such a claim is found to have merit, the employee does not enjoy the right to reinstatement. In such cases the employer is only required to make additional compensatory payments. The burden of proof rests with the employer in cases in which employees allege illegal antiunion activity.

In October protesting truck owners disrupted movement along parts of the highway system for over two days. The truckers asked for lower diesel fuel prices and a limit on the number of truckers allowed to work in the country. Labor unions did not support the truck owners.

The CUT and many other labor confederations and federations maintain ties to international labor organizations.

*b. The Right to Organize and Bargain Collectively.*—Despite legal provisions for collective bargaining, the Labor Code includes provisions that make it difficult for trade unions to organize in many sectors. As a result, the majority of workers work under individual contracts. Employers say that this is due to the workers' preference, distrust of union leaders, and loyalty to companies. Union leaders counter that the Labor Code—which does not allow union shops—prevents successful organization in many sectors. Unions cite the widespread practices of subcontracting and temporary employment as a ways that employers resist unionization.

The Ministry of Labor arbitrates about half of the complaints it receives. Workers may take cases to the courts if they have not been arbitrated. If complainants succeed in proving that they were fired unjustly, the employer must pay discharged employees twice their normal severance payment. There are no statistics available concerning the disposition of complaints of antiunion behavior. There were allegations that employers dismiss workers for union activity and attempt to avoid a complaint by immediately paying them some multiple of the normal severance pay.

Temporary workers—defined in the Labor Code as those in agriculture and construction, as well as port workers and entertainers—may form unions, but their right to collective bargaining is limited, as it is dependent on employers agreeing to negotiate with unions of temporary workers. Likewise, intercompany unions are permitted to bargain collectively only if the employer agrees to negotiate with such a union. Labor Code sanctions against unfair bargaining practices protect workers from dismissal only during the bargaining process. Labor leaders complain that companies invoke the law's needs-of-the-company clause to fire workers after a union has signed a new contract, particularly when negotiations result in a prolonged strike.

Labor laws apply in the duty free zones; there are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The Constitution and the Labor Code prohibit forced or compulsory labor, and it is not known to occur. While the Labor Code does not specifically prohibit forced and bonded labor by children, there were no reports of such practices.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The law allows children between the ages of 16 and 18 to work with the express permission of their parents or guardians. The law allows 15-year-olds to work under certain conditions; their parents must consent they must have finished compulsory schooling, and they may only perform light work not requiring hard physical labor, or constituting a threat to health and childhood development. In July Congress passed a law that raised the minimum legal age for some types of work from 14 to 15 years of age. Additional provisions in the law protect workers under 18 years of age by restricting the types of work open to them (for example, they may not work in nightclubs), and by establishing special conditions of work (they may not work more than 8 hours in 1 day). Labor inspectors enforce these regulations, and compliance is good in the formal economy; however, many children are employed in the informal economy. In August 1999, Congress passed a law that raised the minimum age to work in an underground mine from 18 to 21 years; special regulations govern the ability of 18- to 21-year-olds to work at such sites.

UNICEF estimated that approximately 107,000 children between the ages of 12 and 19 work. A government study in 1996 estimated that 15,000 children between the ages of 6 and 11 and 35,000 children between the ages of 12 and 14 are in the work force. A 1998 Catholic Church study estimated that 50,000 children under the age of 15 worked. The majority of these were males from single-parent households headed by women; among these were children who worked more than 40 hours per week and did not attend school. The Ministry of Labor convenes regular meetings of a tripartite group (business-labor-government) to monitor progress in eradicating child labor. The Labor Code does not specifically prohibit forced and bonded labor by children, but such practices were not known to occur (see Section 6.c.).

*e. Acceptable Conditions of Work.*—The law sets minimum wages, and the minimum wage is adjusted annually. This wage is designed to serve as the starting wage for an unskilled single worker entering the labor force and does not provide a worker and family with a decent standard of living. Approximately 400,000 workers (about 11 percent of the work force) earn the minimum wage. According to the Government, of the workers who earn the minimum wage, approximately 43 percent are between the ages of 15 and 19. A tripartite committee comprising government, employer, and labor representatives normally suggests a minimum wage based on projected inflation and increases in productivity. In May 1998, Congress approved the Government's proposal setting an escalating minimum monthly wage through the year 2000; the minimum wage as of December 31 was approximately \$175 (100,000 pesos).

The law sets hours of work and occupational safety and health standards. The legal workweek is 48 hours, which can be worked in either 5 or 6 days. The maximum workday length is 10 hours, but positions such as caretakers and domestic servants are exempted. All workers enjoy at least one 24-hour rest period during the workweek, except for workers at high altitudes who voluntarily exchange a work-free day each week for several consecutive work-free days every 2 weeks.

Occupational health and safety are protected under the law and administered by both the Ministries of Health and of Labor. The Government has increased resources for inspections by over 60 percent since 1990 and targeted industries guilty of the worst abuses. As a result, enforcement is improving, and voluntary compliance is fairly good. A 1996 law increased the number of annual occupational health and safety inspections and provided that they be carried out by an expanded labor inspection service in the Ministry of Labor. Insurance mutual funds provide workers' compensation and occupational safety training for the private and public sectors. There was a 24-percent decline in reported occupational injuries in 1997, the last available figures, compared with the previous 5 years, although 11 percent of the work force still submitted claims. Workers who remove themselves from situations that endanger their health and safety have their employment protected if a real danger to their health or safety exists.

*f. Trafficking in Persons.*—There are no laws that specifically prohibit trafficking in persons, although it may be prosecuted under other laws.

There were occasional reports that persons were trafficked through the country.

If cases of trafficking in persons were to arise, the police, Justice and Interior Ministries, SERNAM (if the cases involved women), or SENAME (if the cases involved children) would respond.

## COLOMBIA

Colombia is a constitutional, multiparty democracy in which the Liberal and Conservative parties have long dominated politics. Citizens elected President Andres Pastrana of the Conservative Party and a bicameral legislature controlled by the Liberal Party in generally free, fair, and transparent elections in 1998, despite attempts at intimidation and fraud by paramilitary groups, guerrillas, and narcotics traffickers. Similar attempts at intimidation by illegal armed actors, including killings and kidnappings, threatened to impair local elections scheduled for October; however, the elections were generally peaceful. The civilian judiciary is largely independent of government influence; however, the suborning or intimidation of judges, witnesses, and prosecutors is common.

The Government continued to face serious challenges to its control over the national territory, as longstanding and widespread internal armed conflict and rampant violence—both political and criminal—persisted. The principal participants in the conflict were government security forces, paramilitary groups, guerrillas, and narcotics traffickers. The number of victims of paramilitary attacks during the year increased. In some areas government forces were engaged in combat with guerrillas or narcotics traffickers, while in others paramilitary groups fought guerrillas, and in still others guerrillas attacked demobilized members of rival guerrilla factions. The 2 major guerrilla groups, the Revolutionary Armed Forces of Colombia (FARC) and the National Liberation Army (ELN), consist of an estimated 11,000 to 17,000 full-time combatants organized into more than 100 semiautonomous groups. The FARC and the ELN, along with other smaller groups, exercised a significant degree of territorial influence and initiated armed action in nearly 1,000 of the country's 1,085 municipalities during the year, which was approximately the same level as in 1999. Their popular support nationwide remained low, according to polls and numerous other reports. The major guerrilla organizations received a significant part of their revenues (in the hundreds of millions of dollars) from fees levied on narcotics production and trafficking, as well as kidnapping and extortion. Guerrillas and paramilitary groups supplanted absent state institutions in many sparsely populated areas. Peace talks initiated in 1999 between the Government and the FARC continued in a demilitarized zone ("despeje") consisting of 5 southern municipalities, with a total population of approximately 100,000 persons. In the absence of both a state presence and international verification, FARC human rights abuses inside the zone, as well as outside of it, continued. Peace talks were complicated by the September 8 hijacking of a commercial plane by a FARC guerrilla who obtained refuge in the demilitarized zone. On November 14, the FARC unilaterally suspended negotiations and demanded concrete government action against the paramilitary groups. On December 6, President Pastrana extended the term of the demilitarized zone

until January 31, 2001, as intense public debate continued over the value of the existing peace process. The killing of congressional peace commission chairman Diego Turbay Cote on December 29 cast further doubt on the future of peace negotiations, although government and FARC negotiators remained in contact.

In April the Government and the ELN agreed in principle on verification within a proposed "encounter zone" in southern Bolívar and northeastern Antioquia departments, in which the ELN's national convention could take place. However, progress stalled when local residents of the proposed zone protested its creation. Two groups—Asocipaz and the "No to the Despeje" Committee—demanded active consultation with the Government on the creation of an encounter zone and on occasion blocked access to the area. Paramilitary groups have attempted to influence these organizations. The Governments of Spain, France, Switzerland, Norway, and Cuba took a progressively more active role in the peace process during the year and committed to provide development assistance when the zone is implemented. However, the September 17 mass kidnapping of over 50 Cali residents by the ELN again slowed the peace process. After negotiation coupled with military pressure, the last of the hostages were released on November 3. ELN leaders participated in a mid-October conference in San Jose, Costa Rica, jointly sponsored by the Government and a group of nongovernmental organizations (NGO's), to explore solutions to the conflict. (The FARC, although invited, did not participate in the conference.) On December 15, five hired killers wounded public employees' union president Wilson Borja, a key member of the civil society facilitating commission in the Government-ELN peace process. Carlos Castano, the head of the United Self-Defense Groups of Colombia (AUC) paramilitary umbrella organization, admitted a role in the attack. The Christmas release of 42 police and military hostages by the ELN paved the way for continued negotiations on the encounter zone at year's end.

In open opposition to the Government, in November the AUC paramilitary group kidnapped seven members of Congress and demanded that the Government grant the AUC a role in the peace negotiations with the FARC. Interior Minister Humberto de la Calle negotiated the hostages' release with Castano, an action that angered the FARC. The Government refused to accord illegal self-defense (paramilitary) groups any political status.

The civilian-led Ministry of Defense is responsible for internal security and oversees both the armed forces (including the army, air force, navy, marines, and coast guard) and the National Police. In the past, civilian management of the armed forces has been limited; however, over the past few years, the professionalism of the armed forces has improved, and respect for civilian authority on the part of the military has increased. In addition to the armed forces and the National Police, the public security forces include armed state law enforcement and investigative authorities, including the Administrative Department of Security (DAS) and the Prosecutor General's Technical Corps of Investigators (CTI). The DAS, which has broad intelligence gathering, law enforcement, and investigative authority, reports directly to the President but is directed by a law enforcement professional. The police are charged formally with maintaining internal order and security, but in practice law enforcement responsibilities often were shared with the army in both rural and urban areas. Many observers maintain that government action to combat paramilitarism has been inadequate, and in the past security forces regularly failed to confront paramilitary groups; however, the security forces improved their efforts to confront and detain members of paramilitary groups during the year. Nevertheless, members of the security forces sometimes illegally collaborated with paramilitary forces. The armed forces and the police committed serious violations of human rights throughout the year.

Despite years of drug- and politically related violence, the economy is diverse and relatively advanced. Crude oil, coal, coffee, and cut flowers are the principal legal exports. In 1999 the country suffered its first recession in over 60 years, with a decrease in gross domestic product (GDP) of 4.5 percent and record unemployment of over 20 percent. Although the economy recovered with 3 percent growth during the year, the level of unemployment remained unchanged and was at 19.7 percent by year's end. The inflation rate at year's end was 8.75 percent. Since September 1999, the Government has adopted fiscally austere budgets and floated the peso. High levels of violence greatly inhibit business confidence. Narcotics traffickers continued to control large tracts of land and other assets and exerted influence throughout society, the economy, and political life. Income distribution is highly skewed; much of the population lives in poverty. Per capita GDP was approximately \$2,100.

The Government's human rights record remained poor; there were some improvements in the legal framework and in institutional mechanisms, but implementation lagged, and serious problems remain in many areas. Government security forces continued to commit serious abuses, including extrajudicial killings. Despite some



prosecutions and convictions, the authorities rarely brought higher-ranking officers of the security forces and the police charged with human rights offenses to justice, and impunity remains a problem. Members of the security forces collaborated with paramilitary groups that committed abuses, in some instances allowing such groups to pass through roadblocks, sharing information, or providing them with supplies or ammunition. Despite increased government efforts to combat and capture members of paramilitary groups, often security forces failed to take action to prevent paramilitary attacks. Paramilitary forces find a ready support base within the military and police, as well as among local civilian elites in many areas.

On August 12, the revised Military Penal Code went into effect, which provides for an independent military judicial corps and for legal protection for troops if they refuse to carry out illegal orders to commit human rights abuses; the code also precludes unit commanders from judging subordinates. A series of military reform decrees signed by the President on September 14 provided greater facility for the military to remove human rights abusers or paramilitary collaborators from its ranks and provided for the further professionalization of the public security forces. The military judiciary continued to demonstrate an increased willingness to turn cases involving security force officers accused of serious human rights violations over to the civilian judiciary, as required by a 1997 Constitutional Court ruling and the new Military Penal Code; in August a presidential directive reinforced these legal norms.

Police, prison guards, and military forces tortured and mistreated detainees. Conditions in the overcrowded and underfunded prisons are harsh; however, some inmates use bribes or intimidation to obtain more favorable treatment. Arbitrary arrest and detention, as well as prolonged pretrial detention, are fundamental problems. The civilian judiciary is inefficient, severely overburdened by a large case backlog, and undermined by intimidation and the prevailing climate of impunity. This situation remains at the core of the country's human rights problems. The Superior Judicial Council (CSJ) estimated, based on a 1997 survey, that 63 percent of crimes go unreported, and that 40 percent of all reported crimes go unpunished. On April 6, the Constitutional Court overturned much of the 1999 law that had created the specialized jurisdiction (which had replaced the anonymous regional courts system on July 1, 1999).

The authorities sometimes infringed on citizens' privacy rights. Journalists typically work in an atmosphere of threats and intimidation, primarily from paramilitary groups and guerrillas, which appeared to worsen during the year; journalists practice selfcensorship to avoid reprisals. There were some restrictions on freedom of movement, generally because of security concerns. Violence and instability in rural areas displaced between 125,000 and 317,000 civilians from their homes during the year. Almost one-fourth of these movements occurred in massive displacements. (Exact numbers of displaced persons are difficult to obtain because some persons were displaced more than once, and many displaced persons do not register with the Government or other entities.) The total number of internally displaced citizens during the last 5 years may exceed 1 million. There were reports that security force members harassed or threatened human rights groups. Violence and extensive societal discrimination against women, abuse of children, and child prostitution are serious problems. Extensive societal discrimination against the indigenous and minorities continued. Child labor is a widespread problem. Trafficking in women and girls for the purpose of forced prostitution is a problem. "Social cleansing" killings of street children, prostitutes, homosexuals, and others deemed socially undesirable by paramilitary groups, guerrillas, and vigilante groups continued to be serious problems.

Paramilitary groups and guerrillas were responsible for the vast majority of political and other killings during the year. Throughout the country, paramilitary groups killed, tortured, and threatened civilians suspected of sympathizing with guerrillas in an orchestrated campaign to terrorize them into fleeing their homes, thereby depriving guerrillas of civilian support and allowing paramilitary forces to challenge the FARC and the ELN for control of narcotics cultivations and strategically important territories. Paramilitary forces were responsible for an increasing number of massacres and other politically motivated killings. They also fought guerrillas for control of some lucrative coca-growing regions and engaged directly in narcotics production and trafficking. The AUC paramilitary umbrella organization, whose membership totaled approximately 8,150 armed combatants, exercised increasing influence during the year and fought to extend its presence through violence and intimidation into areas previously under guerrilla control while conducting selective killings of civilians it alleged collaborated with guerrillas. The AUC increasingly tried to depict itself as an autonomous organization with a political agenda, although in practice it remained a mercenary vigilante force, financed by criminal activities and sectors of society that are targeted by guerrillas. Although some para-

military groups reflect rural residents' desire to organize solely for selfdefense, most are vigilante organizations, and still others are actually the paid private armies of narcotics traffickers or large landowners. Popular support for these organizations grew as guerrilla violence increased in the face of a slowly evolving peace process. The Government continued to insist that paramilitary groups, like guerrillas, were an illegal force and increased efforts to apprehend paramilitary members; however, the public security forces' record in dealing with paramilitary groups remained mixed. In some locations the public security forces increasingly attacked and captured members of such groups; in others elements of these entities tolerated or even collaborated with paramilitary groups.

The FARC and the ELN regularly attacked civilian populations, committed massacres and summary executions, and killed medical and religious personnel. The FARC continued its practice of using gas canisters as mortars to destroy small towns, indiscriminately wounding government officials and civilians in the process. Guerrillas were responsible for the majority of cases of forcible recruitment of indigenous people and of hundreds of children; they also were responsible for the majority of kidnappings. Guerrillas held more than 1,000 kidnaped civilians, with ransom payments serving as an important source of revenue. Other kidnap victims were killed. At year's end, the FARC and ELN reportedly held 527 soldiers and police. In many places, guerrillas collected "war taxes," forced members of the citizenry into their ranks, forced small farmers to grow illicit crops, and regulated travel, commerce, and other activities. In March the FARC announced "Law 002," which demanded that anyone with assets of \$1 million pay taxes to the FARC or risk kidnapping. The FARC routinely committed abuses against citizens who resided in the despeje zone. Numerous credible sources reported cases of murder, rape, extortion, kidnapping, robbery, threats, detention, and the forced recruitment of adults and children, as well as impediments to free speech and fair trial and interference with religious practices.

#### RESPECT FOR HUMAN RIGHTS

##### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Political and Other Extrajudicial Killing.*—Political and extrajudicial killings continued to be a serious problem. An estimated 4,000 citizens died in such acts, committed principally by nonstate agents. Members of the security forces continued to commit extrajudicial killings.

An analysis of data from the Center for Investigations and Popular Research (CINEP), published by the Colombian Commission of Jurists (an NGO), indicated that there were 20 reports of extrajudicial killings attributable to state forces in the period from October 1999 to March, including deaths that resulted from police abuse of authority. However, the military claimed that six of the deaths resulted from confrontations with guerrillas; four alleged deaths (of which only one was confirmed) resulted from a panic when the army tear-gassed an indigenous protest (see Sections 2.b. and 5); and five were attributed by other groups to paramilitary forces. CINEP calculated 37 similar cases in 1999, which also included deaths that resulted from police abuse of authority. Most of the incidents cited by the Commission were under investigation by military and civilian authorities at year's end. The number of cases of military personnel accused of human rights violations who were tried in civilian courts increased. There were some reports that police and former security force members committed social cleansing killings.

According to the Human Rights Ombudsman's office, there were 235 massacres (defined as the simultaneous or nearly simultaneous killing of 3 or more persons outside of combat at a single location or at several nearby locations) during the first 6 months of the year. An estimated 1,073 persons were killed in these massacres; the Ministry of Defense attributed none of these deaths during this period to public security forces. The Central Directorate of the Judicial Police reported 1,286 persons killed in 216 massacres (defined as 4 or more persons killed in the same incident) during the year and attributed none of these massacres to security forces. The Ombudsman's office recorded 509 massacres in 1999, in which 2,262 persons were killed, and attributed 20 killings to public security forces.

On August 15, an army unit mistakenly killed 6 children; the Prosecutor General's office determined that the act was unintentional harm caused in the course of duty and referred the case to the military justice system (see Section 1.g.).

The human rights delegate of the Attorney General's office, which oversees the performance of all public sector employees, received 201 complaints and cases during the first 6 months of the year and concluded 26 disciplinary investigations. Among the complaints were 20 complaints of massacres. The Attorney General's office received 78 complaints related to massacres and forced disappearances during

the year. Approximately 75 percent of these complaints involved the army (particularly in Putumayo, Antioquia, and southern Bolivar departments); the other 25 percent implicated police or DAS officials. During the year, the Attorney General's office concluded 13 investigations of massacres and forced disappearances attributed to state agents and sanctioned 50 members of the security forces (including 10 members of the National Police, 35 members of the army, and 5 members of the DAS). The office exonerated 20 accused persons. Contrary to previous years, the office referred all cases involving human rights violations to the Prosecutor General for criminal investigation. Five generals were under investigation by the Attorney General during the year for failure to prevent paramilitary massacres in 1998 and 1999.

At year's end, the human rights unit of the Prosecutor General's office reported that it had approximately 918 open investigations of human rights violations, in which 1,379 individuals are under investigation. This number includes 286 members of the military and police, 573 presumed members of paramilitary groups, 353 presumed guerrillas, and 187 other civilians. The unit arrested 302 persons during the first 6 months of the year, and other state entities arrested a further 70 persons against whom the unit had cases. As of November, another 676 arrest warrants for persons against whom the unit had cases remained outstanding, of which 37 are for military personnel, 20 are for police, and 3 are for members of the DAS. The authorities detained 38 members of the army, 41 police, 5 members of the DAS, and 5 members of the CTI during the year.

The Central Directorate of the Judicial Police announced that 25,660 murders occurred during the year, compared with 24,358 murders in 1999. The press reported that on average one person was killed every 20 minutes. The police and the Prosecutor General's office have insufficient resources to investigate most killings adequately. The Superior Judicial Council estimated based on a 1997 survey that 63 percent of crimes go unreported and that 40 percent of all reported crimes go unpunished.

According to a March report by the Ministry of Defense, during the first half of the year, the military judiciary convicted and sentenced 206 members of the National Police, army, and navy for serious offenses that the Ministry identified as violations of human rights: homicide, bodily injuries, rape, attempted murder, illegal detention, and abuse of authority. Of the total of 206 convictions, 66 were for homicide and 113 were for bodily injuries. The average sentences issued in 1998 were 58 months' imprisonment for homicide and 15 months' imprisonment for bodily injuries, although sentences ranged from 2 years to 64 years for homicide, and 2 months to 2 years for bodily injuries. The military judiciary convicted and sentenced 206 persons for serious crimes in 1999. The civilian Criminal Procedure Code authorizes restriction to a military base as an acceptable substitute for imprisonment when military jails or prisons are unavailable.

In August 1997, the Constitutional Court more narrowly defined the constitutional provision that crimes by state agents unrelated to "acts of service" must be tried in civilian courts (see Section 1.e.). Since then the military judiciary has turned 1,307 cases, of which an estimated 41 percent are for possible human rights violations, over to the civilian judiciary for investigation and possible prosecution, including cases involving high-ranking officers. During the year, the military judiciary turned 496 cases over to the civilian judiciary, compared with 79 cases in 1999 and 266 cases in 1998. The new Military Penal Code reiterates that the crimes of forced disappearance, torture, and genocide must be tried in civilian courts. President Pastrana reaffirmed these new legal norms in an August directive sent to the military high command and the commander of the National Police (see Section 1.e.).

Prosecution continued in civilian courts against army Major David Hernandez, Captain Diego Fino Rodriguez, Sergeant Edgardo Varon, and Privates Carlos Escudero, Ferney Cardona, and Raul Gallego, members of the Fourth counter-guerrilla battalion (Fourth Brigade), for the March 1999 murder of Antioquia peace commissioner (and former Vice Minister for Youth) Alex Lopera and two other persons. However, in March Captain Fino escaped military detention; four soldiers are under investigation for complicity in his escape. Major Hernandez had escaped in June 1999 and was still at large at year's end. Following Fino's escape, the military announced that all military detainees would be transferred to the military stockade at Tolomaida to prevent further escapes; however, it was not clear that this was implemented in all cases.

On April 1, the Attorney General's office publicly stated that it had found insufficient evidence to bring charges against retired army Colonel Jorge Plazas Acevedo, former chief of intelligence of the army's 13th Brigade, for the October 1998 kidnapping and later murder of Jewish business leader Benjamin Khoudari. The Attorney General's office announced that it was dropping its administrative investigation and publicly asked the Prosecutor General's office to drop its criminal investigation.

However, the Prosecutor General's office continued its prosecution of Colonel Plazas and civilians Jhon Alexis Olarte Briceno and Guillermo Lozano Guerrero, who were on trial at year's end. The Prosecutor General's office has 11 other arrest warrants pending in the case; 1 lieutenant was ruled out as a suspect.

During the year, the Attorney General sanctioned eight service members in connection with the May 1998 Barrancabermeja massacre, of which three—army Captain Oswaldo Prada Escobar, Lieutenant Enrique Daza and Second Lieutenant Hector Guzman Santos—were discharged. A police lieutenant colonel, captain, and lieutenant, as well as two DAS agents were suspended. On July 12, Elizabeth Canas Cano, a key eyewitness to the massacre, was killed by two unidentified gunmen. In May the Prosecutor General's office ordered the preventive detention of four paramilitary suspects in the case; the investigation was still in progress at year's end. The Attorney General's office also was conducting an inquiry into the death of Canas.

In December the Attorney General's office charged 17 police and 9 army officials with collusion with paramilitary groups in approximately 160 social cleansing murders by members of paramilitary groups in northeastern Antioquia (near the communities of La Ceja, Guarne, and El Penon) during 1995-98. The Attorney General also charged two municipal officials with omission. The Prosecutor General's office pressed criminal charges against 3 of the 26 officials charged by the Attorney General; police Captain Luis Alfredo Castillo Suarez Juan Carlos Valencia Arbalaez and Carlos Mario Tejada Gallego were on trial in Medellin at year's end. Army Lieutenant Colonel Jesus Maria Clavijo Clavijo, Staff Sergeant Javier Gomez Herran, and soldier Carlos Mario Escudero are under investigation in the killings. Clavijo was arrested, suspended from duty, and placed in military detention on March 17. Although the army challenged jurisdiction, arguing Clavijo's actions were related to acts of service, the CSJ ruled that the case should be tried in civilian court.

On March 3, the ongoing civilian prosecution of retired Colonel Bernardo Ruiz Silva, former commander of the army's now disbanded 20th Brigade (military intelligence), for allegedly organizing the November 1995 Bogota killing of Conservative Party opposition leader Alvaro Gomez Hurtado suffered a major setback when key witness Luis Eduardo Rodriguez Cuadrado retracted his previous testimony before a Bogota judge. However, the testimony of another key witness helped the prosecution. The trial continued at year's end. Also on trial are army intelligence agents Henry Berrio Loaiza and Carlos Gaona Ovalle, retired army warrant officers Omar Berrio Loaiza and Franklin Gaona Ovalle, and civilian accused killers Hector Paul Florez Martinez, Manuel Mariano Montero Perez, Gustavo Adolfo Jaramillo Giraldo, and Hermes Ortiz Duran.

In 1999 the human rights unit of the Prosecutor General's office formally indicted marine Colonel Jose Ancizar Molano Padilla, then-commander of the 2nd Marine Infantry Battalion, as well as marine Corporals Javier Fernando Guerra, Eduardo Aristides Alvarez, and Jose Milton Caicedo for the 1995 social cleansing killings of alleged thieves Sifredy and Fredy Arboleda. On May 25, the Prosecutor General ordered the detention of marine Sergeant Francisco Duarte Zuniga, who was still at large at year's end. A disciplinary investigation by the Attorney General was still underway at year's end.

In October 1998, the Attorney General's office severely reprimanded marine Lieutenant Colonel Rodrigo Alfonso Quinones, along with 4 others, for colluding with paramilitary groups in the murders of at least 50 persons in Barrancabermeja, Santander department, in 1992-94, although he was exonerated by a military tribunal in 1994. Quinones appealed the reprimand, but Attorney General Jaime Bernal recused himself from the case, and Congress never appointed anyone else to adjudicate the matter. The statute of limitations on the case expired during the year, leaving the reprimand standing. During the year, Quinones was promoted to brigadier general.

In July 1999, the Prosecutor General's office indicted paramilitary Nicolas Antonio Gomez Zapata for participation in the January 1994 "La Chinita" massacre, which resulted in the deaths of 35 persons. Among the 50 service members sanctioned by the Attorney General during the year were persons accused of involvement in this massacre. No progress has been reported in the Prosecutor General's case.

At year's end, three army noncommissioned officers sought in connection with the April 1991 massacre of bus passengers at Los Uvos remained at large.

In August a civilian court absolved retired army Colonel Hernando Navas of involvement in the November 1988 Nuevo Segovia massacre in which over 100 persons were killed or wounded. The authorities have charged 8 military officials, 1 police officer, and 10 civilians in the case. Among these, Lieutenant Colonel Alejandro Londono Tamayo and Lieutenant Colonel Marco Baez Garzon continued to appeal

civilian court convictions related to the massacre. Londono remained in detention, but was still on active duty, although he has been deprived of command responsibilities. Baez Garzon also was deprived of command responsibility and remained in military custody in Bogota.

On June 29, the Constitutional Court instructed the CSJ to reconsider its 1996 decision referring the case of the 1987 forced disappearance, torture, and death of a member of the M-19 guerrilla group, Nydia Bautista, by accused retired General Alvaro Velandia Hurtado to military courts. Upon the stipulated review, the CSJ reversed itself and assigned jurisdiction to the civilian courts at the end of July, pointing out that the acts were not related directly to military service. The Prosecutor General's office continued its investigation.

There was no information available regarding the pending trial of Lieutenant Colonel Jose Vincente Perez Berrocal for the 1987 killing of a Liberal mayor.

No motives or suspects have been identified in the September 1998 killing of Congressman Jorge Humberto Gonzalez. The investigation remained open at year's end.

Credible allegations of cooperation with paramilitary groups, including instances of both silent support and direct collaboration by members of the public security forces, in particular the army, continued. Evidence suggests that there were tacit arrangements between local military commanders and paramilitary groups in some regions, and paramilitary forces operated freely in some areas that were under military control or despite a significant military presence. Individual members of the security forces actively collaborated with members of paramilitary groups—passing them through roadblocks, sharing intelligence, providing them with ammunition, and allegedly even joining their ranks while off-duty.

The military high command, under the leadership of Defense Minister Luis Fernando Ramirez and General Fernando Tapias, stated repeatedly that it would not tolerate collaboration between military personnel and paramilitary groups and that the army would combat paramilitary groups; however, security force actions in the field were not always consistent with the leadership's positions. Credible reports persisted of paramilitary installations and roadblocks near military bases; of contacts between paramilitary and military members; of paramilitary roadblocks unchallenged by military forces; and of military failure to respond to warnings of impending paramilitary massacres or selective killings. Military entities often cited lack of information or resources to explain this situation. Impunity for military personnel who collaborated with members of paramilitary groups remained common.

In September the President signed military decrees that allowed for the dismissal of members of the public security forces who were complicit in paramilitary or other illegal activities; government agencies actively investigated allegations of collaboration or complicity with paramilitary groups by members of the security forces. A total of 388 members of the military were dismissed in October; however, it was not known how many of these were dismissed for collaborating with paramilitary groups in such abuses (see Section 1.e.).

Both the Peasant Self-Defense Groups of Cordoba and Uraba (ACCU), the largest of the seven major paramilitary organizations of the AUC umbrella group, and the army's Fourth Brigade claimed responsibility, but in different circumstances, for the January 23 killings of two long-demobilized guerrillas. The ACCU claimed that it killed Uberney Giraldo and Jose Evelio Gallo, both leaders of the Socialist Renewal Current (CRS), and two others after abducting them from the village of San Antonio, Antioquia department. On January 24, the army's Fourth Brigade announced that it had killed two "ELN guerrillas" in combat, but civilian autopsies identified them as the two missing CRS leaders. On January 26, gunmen stole the bodies from the morgue but left the autopsy reports behind. At year's end, investigations by the Attorney General's office and the Prosecutor General's office were underway.

On February 19–20, a large group of AUC paramilitary attackers killed an estimated 37 persons whom they suspected of being guerrillas or guerrilla sympathizers at El Salado, Bolivar department. The navy reportedly set up a roadblock shortly after the killings began, which prevented human rights and relief groups from entering; some groups accepted the navy's explanation that access was not possible due to fighting in the area. The Ministry of Defense denied charges that the navy blocked NGO's from entering or colluded with paramilitary forces, and an investigation by the Prosecutor General was underway at year's end. A military investigation did not find any substantiation for these charges.

The paramilitary group reportedly had been in the town since February 16, and had a list of names of persons they suspected of being guerrilla supporters. The victims included a 6-year-old girl and an elderly woman, and some victims were tortured or raped. The attackers also burned several homes. On February 19, the paramilitary group flew in a helicopter to rescue an injured member. According to

Human Rights Watch, 30 minutes after the paramilitary forces withdrew, government forces entered the town.

On February 22, members of the 3rd Marine Infantry Battalion captured 11 members of the paramilitary group suspected of participating in the El Salado massacre, killed 2 of them, and downed a paramilitary helicopter. According to NGO's and press reports, the massacre at El Salado and a February 15-16 paramilitary massacre at nearby Las Ovejas, Sucre department, displaced approximately 3,000 persons. By year's end, 16 paramilitary suspects were under arrest, and the Prosecutor General's investigation into the paramilitary group's responsibility for the massacre was concluded.

Members of the San Jose de Apartado "peace community" in Uraba region, Antioquia department, as well as NGO's, accused the 17th Brigade of involvement in 2 paramilitary massacres in February and July in which 11 persons were killed. On February 19, unidentified perpetrators widely believed to be members of the ACCU paramilitary group attacked San Jose de Apartado. They selectively killed five persons, and wounded three others. There were reports that the men wore the insignia of the 17th Brigade on their uniforms and that army troops were seen on the outskirts of the city several hours before the massacre. On July 8, approximately 20 paramilitary assailants murdered 6 peasants in La Union, part of San Jose de Apartado. The attackers reportedly gave the citizens 20 days to leave the town. NGO's alleged that the 17th Brigade was complicit in both attacks and that army members were near La Union prior to the July 8 attack. There were allegations that a military helicopter hovered over La Union during the massacre; however, these allegations were never confirmed. The military investigation rebutted the charges. The Prosecutor General was investigating both incidents at year's end. There were at least two visits during the year by joint commissions of inquiry including representatives from the Prosecutor General's office, the Human Rights Ombudsman's office, and international NGO's. Human rights NGO's and members of the peace community of San Jose de Apartado reported 11 additional deaths in separate incidents during the year, half of which they attributed to paramilitary forces. They also reported frequent paramilitary roadblocks, intimidation, theft, and the restriction of incoming food supplies.

In February Human Rights Watch issued a report that stated that the army maintains close operational ties to paramilitary groups. The report highlighted incidents of collaboration by officers of the army's Third, Fourth, and 13th Brigades. It stated that according to evidence from government investigators, the army's Third Brigade based in Cali provided weapons and intelligence to the paramilitary "Calima Front." The report also detailed ties between the army's Fourth Brigade and paramilitary groups and ties between the 13th Brigade (intelligence) and paramilitary groups. The report also detailed threats received by various government agents while they investigated these ties.

Vice President Gustavo Bell responded to the Human Rights Watch report and said that while the Government has never denied residual ties between individual members of the public security forces and paramilitary groups, it has moved to break those ties and punish those responsible. Bell said that the suggestion that there was a "deliberate, institutional will to help and support" paramilitary groups was untrue. Bell noted that much of the information in the report came from the Prosecutor General's office, demonstrating that the Government was investigating military crimes.

In March the Attorney General's office ordered that Vice First Sergeant Jose Maria Cifuentes Tovar, of the 45th Battalion, be removed from the army for having failed to obey orders to install a roadblock to prevent the escape of members of paramilitary groups from Barrancabermeja following a February 1999 massacre that left nine persons dead. On March 18, 1999, police arrested paramilitary leader Mario James Mejia ("el Panadero") for killing a taxi driver; he then was charged in Bogota with leading the February 1999 Barrancabermeja massacre and was still under investigation at year's end. Pedro Mateo Hurtado Moreno and three other paramilitary suspects in the massacre remained at large at year's end. Politically motivated killings and related unrest continued in Barrancabermeja at a very high rate throughout the year.

In March the human rights unit of the Prosecutor General's office ordered the detention of army Captain Luis Fernando Campusano Vasquez and sought the capture of 15 other civilians, including Carlos Castano, who remained at large. They are suspected of being affiliated with area units that collaborated with a 300-person paramilitary group based at Vetaz, Norte de Santander department, which committed 15 massacres in and around the towns of La Gabarra and Tibu between May 29 and September 1, 1999. More than 145 persons whom the attackers claimed were guerrillas or guerrilla supporters were killed. Nearby elements of the army's 46th

counterguerrilla battalion (Tibu) and Fifth mechanized group (Cucuta), as well as police, did not intervene.

In July the Attorney General announced an investigation into retired army Brigadier General Alberto Bravo Silva, Colonel Roque Sanchez, and three other army officers for failing to prevent a paramilitary massacre of 27 persons in August 1999 in La Gabarra. The investigation was still in progress at year's end. Bravo retired in August 1999 on the orders of President Pastrana. Two of the three army officers are still members of the public security forces. Colonel Sanchez, the regional police commander at the time of the killings, was on trial at year's end. In October the Attorney General's office also charged Colonel Sanchez. On May 3, the Prosecutor General's office formally charged AUC paramilitary chief Carlos Castano with mas-termining the May 29 and August 21 La Gabarra massacres in 1999.

In March the Prosecutor General issued formal indictments against eight security force members, including Tibu military base Commander Mauricio Llorente Chavez, for complicity in a paramilitary massacre that took place in Tibu in July 1999. Five members of the police were charged in May and subsequently were arrested. On June 20, the Prosecutor General's office arrested six members of the National Police—Arturo Velandia, Luis Toloza, Miguel Hernandez, Alfonso Ortiz, Gustavo Lobo, and Jose Ordenez.

In April 1999, President Pastrana formally retired from service Brigadier Generals Fernando Millan Perez and Rito Alejo del Rio; both had links to paramilitary groups. The Government stated only that it "was no longer convenient" for them to continue their military service. The military judiciary announced no new developments during the year in its ongoing investigation of General Millan regarding allegations that he armed and equipped a paramilitary group in Lebrija, Santander department, in 1997. The group was believed responsible for at least 11 killings. In October 1998, the Superior Judicial Council had determined that Millan's alleged actions constituted an act of service and turned the case over to the military judiciary for prosecution, effectively cutting off the prosecutor's investigation. Millan had denied the charges. In June 1999, the Attorney General's office opened a disciplinary investigation of Millan, which still was in progress at year's end.

At year's end, General del Rio, former commander of the 13th Brigade, remained under preliminary investigation by the human rights unit of the Prosecutor General's office for allegedly establishing illegal paramilitary groups in Medellin in 1987, and in Uraba in 1996. General Del Rio is also under preliminary investigation by the Attorney General's office.

On July 27, the Attorney General's office formally charged five army officers, including four generals, for failing to protect the residents of Puerto Alvira, Meta department, when paramilitary forces killed 19 persons in May 1998, despite repeated requests by the Human Rights Ombudsman. The five charged are former commanders of the army's Fourth Division, retired General Augustin Ardila Uribe and General Jaime Humberto Cortes Parada (the army's Inspector General); former commander of the 7th Brigade, retired Brigadier General Jaime Humberto Uscategui; commander of the 2nd Brigade, General Fredy Padilla de Leon (former head of the Seventh Brigade); and commander of the "Joaquin Paris" battalion, Colonel Gustavo Sanchez Gutierrez. Those involved denied the charges. The Attorney General's investigation was still in progress at year's end. In June a first instance military court recommended closing the investigation of the case; the Superior Military Tribunal was considering this recommendation at year's end. At year's end, the human rights unit of the Prosecutor General's office had detained three members of paramilitary groups and had outstanding arrest warrants for five more, including brothers Carlos and Fidel Castano.

In August air force Commander Hector Fabio Velasco called for the renewed detention and a first instance hearing of Brigadier General Jaime Uscategui and Lieutenant Colonel Hernan Orozco in connection with the July 1997 AUC paramilitary massacre of dozens of persons at Mapiripan, Meta department. Army Commander General Jorge Mora had recused himself from Uscategui's case due to personal ties and was replaced by Velasco. A military tribunal was still considering the issue at year's end. In May 1999, Uscategui was arrested on civilian charges connected with the case, but in August 1999, the CSJ had ruled that the case should be tried in the military courts. Uscategui was released after 180 days when the military investigation produced no action, although the investigation continued. Early in 1999, Uscategui sought to retire from the military effective in January; however, his effort was thwarted by the Attorney General, who ordered Uscategui dismissed from the military in November 1999 for dereliction of duty in the October 1997 judicial convoy massacre in San Juan de Arama, Meta department. A military trial of Brigadier General Uscategui and Lieutenant Colonel Orozco still was in progress at year's end.

In August 1999, the CSJ had sent the cases of all other defendants in the Mapiripan case to the civilian courts for action, including charges against Lieutenant Colonel Lino Hernando Sanchez Prada for facilitating the massacre, which was determined not to be an act of service. As of February 29, the Prosecutor General's human rights unit had completed its investigations of Lieutenant Colonel Sanchez and the five other defendants (two noncommissioned officers and three commercial pilots) in the civilian judiciary. In November the Prosecutor General indicted in a separate process Lieutenant Colonel Sanchez, two army sergeants, and eight members of paramilitary groups (including two civilian pilots). All the cases were on trial by year's end. In addition to Sanchez, and the five other defendants, two more presumed paramilitary group members (who also were still in detention) were indicted in December.

In May the Attorney General's office, which in 1999 formally had accused five officers, three noncommissioned officers, and five civilian officials of possible complicity or participation in the July 1997 Mapiripan massacre, dropped the charges against and closed the investigation of Lieutenant Colonel Lino Sanchez Prada. The other cases remained under investigation at mid-year.

The case of retired army Colonel Jose Ancizar Hincapie Betancurt for collaboration in 1993-94 with a paramilitary group that killed 10 persons remained pending before civilian courts at year's end.

In July Ivan Cepeda, the son of murdered Senator Manuel Cepeda Vargas, was forced to flee the country due to death threats that he suspected were a reaction to his activism in pursuing justice for his father's 1994 death. In testimony before the Senate, the Attorney General had stated that the Senator had been killed as the result of a joint operation between some senior army officers and members of paramilitary groups. In 1999 the Attorney General's office severely reprimanded army First Sergeant Justo Gil Zuniga Labrador and Vice First Sergeant Hernando Medina Camacho, then members of the army's 20th Brigade, for the killing of Senator Cepeda, who was the leader of the Patriotic Union (UP) party. The army discharged both men from service, and in December 1999 they each were sentenced to 43 years' imprisonment for their roles in Cepeda's murder.

Paramilitary groups committed numerous extrajudicial killings, primarily in areas where they competed with guerrilla forces for control, and often in the absence of a strong government security force presence. The frequency of paramilitary massacres continued to increase significantly. Several major paramilitary campaigns during the year involved a series of orchestrated massacres in Uraba, Norte de Santander, and Barrancabermeja. At mid-year the Human Rights Ombudsman attributed 93 massacres, which claimed 512 victims, to paramilitary groups. In 1999 the office received 1,467 complaints against members of paramilitary groups. The Ministry of Defense attributed 52 percent of the estimated 1,073 deaths that occurred in the 235 massacres reported by the Human Rights Ombudsman's office during the first 6 months of the year. In December the Ministry of Defense reported that paramilitary forces killed 983 civilians in massacres during the year. The Colombian Commission of Jurists attributed 657 killings and 118 social cleansing killings to paramilitary groups in the period from October 1999 through March. Paramilitary activities also included kidnapping, intimidation, and the forced displacement of persons not directly involved in hostilities (see Sections 1.b. and 1.g.). Paramilitary groups targeted teachers (see Section 2.a.), human rights activists (see Section 4), labor leaders (see Section 6.a.), community activists, national and local politicians (including President Pastrana), peasants, and other persons whom they accused of supporting or failing to confront guerrillas. Paramilitary forces killed members of indigenous groups (see Section 5).

AUC paramilitary groups were suspected of hundreds of selective killings throughout the country, especially in Choco, Santander, Valle del Cauca, and Antioquia departments. The FARC, the ELN, or both, had a strong presence in these areas as paramilitary forces vied with them for control of territory or resources, including coca cultivation. Paramilitary groups continued to kill political leaders and peace activists, including peace community leader Freddy Gallego, former Aguachica mayor and peace activist Luis Fernando Rincon, and former Cucuta mayor (and current mayoral candidate at the time of his death) Pauselino Camarga. Fourteen members of the CTI were killed during the year in various parts of the country. Both paramilitary forces and guerrillas were suspected of responsibility in these killings.

Paramilitary massacres at Las Ovejas, Sucre department, and El Salado, Bolivar department, were part of an ongoing paramilitary effort to wrest control of the Montes de Maria region from guerrillas. On February 15-16, approximately 150 ACCU members staged attacks in 5 neighborhoods of Las Ovejas. They killed at



least 20 persons whom they suspected of being guerrillas or guerrilla sympathizers, burned dozens of homes, and displaced a large number of persons.

On April 6, approximately 50 paramilitary attackers massacred 21 men whom they suspected of being guerrillas or guerrilla collaborators at Tibu, Catatumbo region, Norte de Santander department, in a continuation of a series of 15 massacres in the region in 1999.

On May 11, a paramilitary group that identified itself as the "Calima Front" claimed responsibility for the killings of 12 civilians in the village of Sabaletas, just outside Buenaventura, Valle del Cauca department. The group also claimed to have killed 14 other persons it suspected of being guerrillas in the same area. According to Human Rights Watch, the army's Third Brigade created and supports the Calima Front, which Human Rights Watch believes is responsible for at least 200 killings between July 1999 and July 2000, as well as the displacement of over 10,000 persons.

In August the AUC paramilitary movement claimed that it had killed the leader and six members of the "la Terraza" gang of hired killers based in Medellin. The AUC was known to have contracted the gang to conduct killings.

In a series of attacks on the night of November 22, paramilitary forces killed 15 fishermen in Nueva Venecia, in the region of La Ciénaga de Santa Marta, Magdalena department, and kidnaped another 22 persons whose bodies later were discovered. Human Rights Ombudsman Eduardo Cifuentes issued a December 14 resolution that reported that 45 persons were killed and that 25 had disappeared, criticized slow government action to assist those displaced as a result of the incident, and called for immediate investigation of reports of a paramilitary base in the area. The Prosecutor General's office was investigating the 37 confirmed deaths at year's end.

Other examples of paramilitary massacres included the killing of 7 persons in Estados Unidos in January, the November killings of 15 persons in Granada in the western part of the country, and the killing in November of 7 persons in Barrancabermeja.

Investigations of past killings and massacres proceeded slowly. In many cases there was no progress in ongoing investigations. Progress during the year included the issuance of warrants of arrest for five suspects involved in murder and extortion as members of the El Corral Convivir (self-defense group) in 1991 in Arauca department. Other members of paramilitary groups investigated and indicted included Luis Arnulfo Tuberquias, who was linked to kidnaping and theft on behalf of such groups; among those captured were Jose Luis Hernandez and Ruben Isaza, nephew and son respectively of paramilitary leader Ramon Isaza, and Dario Zapata Hernandez, allegedly the second in command of the AUC in the Puerto Boyaca area, Caldas department.

On May 3, the Prosecutor General's office formally charged AUC paramilitary leader Carlos Castano with the August 1999 killing of renowned journalist, political comedian, and peace and human rights activist Jaime Garzon Forero in Bogota. On January 13, members of the CTI captured La Terraza gang member Juan Pablo Ortiz Agudelo in Medellin on suspicion of having been the gunman in the attack against Garzon. Ortiz remained in detention in Bogota at year's end. In December a group of men claiming to represent the "La Terraza" criminal organization said publicly that they were hired by Castano to kill Jaime Garzon and human rights activists Elsa Alvarado, Mario Calderon, Jesus Maria Valle, and Eduardo Umana Mendoza. They offered to turn themselves in and provide proof of Castano's involvement in return for security guarantees from the Government. There was no public response from the authorities by year's end.

In December 1999, Spain complied with a government request and extradited paramilitary Lubin de Jesus Morales Orozco, who was arrested in Madrid in June 1999 on unrelated charges, for the April 1998 killing of Eduardo Umana Mendoza, perhaps the country's best-known and most controversial human rights lawyer. Five persons, including Morales, remained in detention and were on trial in a civilian court at year's end.

On June 14, the trial of 10 persons suspected of the February 1998 killing of human rights activist Jesus Maria Valle began in Medellin. Valle was the president of the Antioquia Permanent Committee for the Defense of Human Rights. Charges were brought against suspected killers Jorge Eliecer Rodriguez Guzman, Alvaro Goz Meza, Gilma Patricia Gaviria Palacios, Elkin Dario Granada Lopez, Alexander Vallejo Echeverry, and Carlos Alberto Bedoya Marulanda for direct participation in the crime. In August 1999, the Prosecutor General's office issued arrest warrants for AUC paramilitary leader Carlos Castano and Juan Carlos Gonzalez Jaramillo for planning the crime. Castano was indicted in September 1998 for the killing. According to press reports, the first police agent on the case was killed soon afterward;

the prosecutor fled the country; and another investigator was killed in September 1999.

On November 22, a Bogota judge convicted paramilitary Juan Carlos Gonzalez Jaramillo (alias "El Colorado") and Walter Jose Alvarez Rivera in the May 1997 murders of two CINEP workers, Mario Calderon and Elsa Alvarado, as well as Alvarado's father, Carlos Alvarado. Jaramillo was sentenced to 60 years in prison, and Alvarez Rivera was sentenced to 45 years. The judge determined that soccer magnate Gustavo Adolfo Upegui Lopez was not implicated in the murders but ordered a review of evidence presented during the CINEP trial that connected Upegui with paramilitary groups. Upegui remained under arrest in Medellin on separate charges at year's end. The judge also convicted two other men connected to the case for the illegal use of telecommunications equipment and exonerated two other men accused of organizing the murders. An arrest warrant for paramilitary leader Carlos Castano in connection with this case remains outstanding.

Accused paramilitary Ivan Urdinola Grajales remained detained in connection with the 1989-90 "Trujillo I" massacres in Valle department, and also is implicated in the 1994 "Trujillo II" massacre. Prosecutors also have an outstanding warrant for the detention of one other paramilitary member in the Trujillo I case. In May a court upheld charges against paramilitary Norberto Morales Ledesma for involvement in the Trujillo II massacre. Paramilitary member Reynel Gomez Correa, detained in 1999 in connection with Trujillo II, was murdered in prison in December, before he could be brought to trial. Two other members of paramilitary groups implicated in both Trujillo I and Trujillo II remain at large. One such person has been detained, and another is being sought in the Trujillo I massacre. One paramilitary member has been convicted and another detained for the 1994 Trujillo II massacre. Investigations continue in both cases.

In July the superior court of Cundinamarca department exonerated Jose Tellez and his wife Nancy Lozano, who were accused of participating in the 1989 killing of Liberal presidential candidate Luis Carlos Galan. Another suspect, Alberto Hubiz Hazbun, who was accused of planning the crime, was absolved in 1993. The only person to have been convicted of the crime is John Jairo Velazquez Vasquez, who was sentenced to 20 years in prison in 1997.

No suspects have been identified in the September 1999 killing of academic and peace activist Jesus Bejarano.

There was no information available on the investigation into the May 1998 killing of former Defense Minister General Fernando Landazabal Reyes.

While an estimated 507 members of paramilitary groups were believed to be in jail at year's end, known paramilitary leaders largely remained beyond the reach of the law. Government figures indicated that from 1997 through October 2000, 934 members of paramilitary groups have been captured, and 150 members have been killed. The Ministry of Defense reported that during the year the security forces killed 89 members of paramilitary groups and captured 315 members. In 1999 the army reported that it killed 26 members of paramilitary groups and captured 102 during that year.

Paramilitary forces killed members of indigenous groups (see Section 5) and members of trade unions (see Section 6.a.).

The guerrillas of the FARC, the ELN, and the People's Liberation Army (EPL) continued to commit killings, often targeting noncombatants in a manner similar to that of paramilitary groups. The Colombian Commission of Jurists reported that guerrillas were responsible for 236 political killings in the period of October 1999 through March. The Ministry of Defense attributed 880 civilian deaths in massacres to guerrillas during the year. The Human Rights Ombudsman attributed 22 massacres to the FARC during the first 6 months of the year and 9 massacres to the ELN. The Ombudsman also attributed 89 killings to the FARC and 31 killings to the ELN during the first 6 months of the year. Local elected officials and candidates for public office, teachers, civic leaders, business owners, and peasants opposed to their political or military activities were common targets. The Federation of Colombian Municipalities reported that 17 mayors were killed during the year; guerrillas were the principal suspects (see Section 3). For example, in November unknown gunmen killed Carlos Julio Rosas, mayor of Orito, Putumayo department. In addition, in the run-up to the October municipal elections, 19 mayoral candidates were killed. Police and military personnel were targeted for selective and combat killings (see Section 1.g.). Guerrilla groups also killed religious leaders (see Section 2.c.), members of indigenous groups (see Section 5), and labor leaders (see Section 6.a.). Some communities controlled by guerrillas also experienced social cleansing killings of criminal or other "undesirable" elements. Guerrilla campaigns around the demilitarized area, in the Norte de Santander, Antioquia, and southern departments often

involved significant civilian casualties and prompted significant displacements (see Section 1.g.).

According to military statistics, FARC and ELN guerrillas killed as many as 200 children during the year (see Sections 1.g. and 5).

The human rights unit of the Prosecutor General's office reported in November that it is conducting ongoing investigations into the detention, disappearance, and deaths of 92 off-duty army personnel. Police suspected 22nd FARC front commander "Geovanni" of ordering the February 27 killing of retired army General Crispiniano Quinones (a former commander of the 13th Brigade) by unidentified gunmen at La Vega, Cundinamarca department. According to the press, Geovanni and two other FARC members were killed shortly thereafter in a confrontation with police.

On March 25 and 26, at least 21 police officers and 8 civilians (including the mayor of Vigia del Fuerte and 2 children) were killed when the FARC overran the twin towns of Vigia del Fuerte, Antioquia department, and Bellavista, Choco department. The FARC held captive at least seven more police officers. The FARC tortured many of the policemen before killing them outside of combat. In April the authorities issued an arrest warrant for FARC member Luis Fernando Zapata Hinestroza.

In May six men who participated in roadblocks protesting a possible demilitarized zone for the ELN in southern Bolivar and Antioquia departments were killed in the Magdalena Medio region. The ELN was suspected of the killings.

On May 7, FARC guerrillas attacked a public bus in Gigante, Huila department, with an explosive device; the driver lost control and hit a tree. FARC members shot at the occupants of the bus and burned the vehicle; four occupants were still inside when the bus was set on fire and are presumed dead.

In June the FARC massacred at least 11 civilians at Nutibara, Antioquia department, and injured 15 other persons. The army's 14th Brigade responded to this and other FARC attacks, reportedly killing 14 guerrillas.

On July 10, in Huila department, two unidentified gunmen killed General Saulo Gil Ramirez, former Director of the National Police from 1958-65. The press speculated that guerrillas were responsible for the killing.

On July 1, 1 person was killed and approximately 40 were wounded when several explosive devices exploded at the El Valle police command in Cali. Authorities attributed the explosion to subversive groups. On the same day, ELN guerrillas attacked the police's Simon Bolivar Carabineer Academy in southwestern Cali.

On July 14, the FARC entered the town of Roncesvalles in Tolima department and killed 13 policemen (see Section 1.g.).

An August offensive by the FARC resulted in the deaths of more than 20 civilians and military personnel.

In August FARC guerrillas killed secretary general of Rio Blanco Milciades Luis Garabito after accusing him of paramilitary ties.

According to press reports, also in August an ELN guerrilla squad tortured and killed eight residents of Sardinita, including one child and one teacher.

In early October, the FARC attacked the remote village of Ortega and killed eight persons, including two women and two children. The guerrillas also burned 20 homes, a school, and a church.

On October 18, guerrillas attacked Bagado and Dabeiba in the Choco department, killing 1 police officer; 17 were missing. Much of Bagado was destroyed.

On November 23, suspected guerrillas killed 12 persons in Santander de Quilichao, Cauca department. At least some of the victims reportedly were linked to paramilitary groups. Two women were injured. Also on November 23, FARC guerrillas killed nine peasants suspected of collaborating with paramilitary groups in Antioquia department.

Investigations into reported killings by FARC members within and on the periphery of the demilitarized zone continued. On December 29, congressional peace commission chairman Diego Turbay Cote, his mother councilwoman Ines Cote, and five other persons were killed in Caqueta department (near the FARC demilitarized zone). The killings placed the future of the peace process in doubt as the Prosecutor General, army, and police alleged that the FARC were responsible. There was no reported progress in the Prosecutor General's investigation into the May 1999 killings in Vereda Perlas Altas, Puerto Rico, Caqueta department. According to press reports, the FARC have executed approximately 20 residents in the despeje zone.

Guerrillas killed citizens using bombs and artillery and continued their practice of using gas canisters to attack small towns, thereby killing civilians indiscriminately (see Section 1.g.).

On May 1, FARC spokesman Raul Reyes said that a FARC "revolutionary tribunal" exonerated FARC eastern bloc commander German Briceno Suarez ("Grannobles") of involvement in the March 1999 killings of kidnapped American cit-

izen indigenous activists Terence Freitas, Lahe'ena'e Gay, and Ingrid Washinawatok near Saravena, Arauca department. In July 1999, the Prosecutor General's office ordered the arrest of Briceno; army efforts to apprehend him and other FARC members accused of the crime had not been successful at year's end. Reyes said that investigations of other FARC members suspected of the killings would continue. In September the Prosecutor General's office sought to question Nelson Vargas Ruedas, a FARC guerrilla imprisoned in Bogota, for information about the crime. U'wa tribe member Gustavo Bocota Aguablanca, who also was indicted for the crime in December 1999, was still at large at year's end. The investigation of the case continued at year's end.

In December a Medellin court ruled that Wilson Eusebio Garcia Ramirez, commander of the ELN's "Carlos Alirio Buitrago" front, should be tried in absentia for the September 1998 killings of CTI members Edilbrando Roa Lopez and John Morales Patino at Mesopotamia, Antioquia. The two had been investigating a 1998 massacre of nine persons at the nearby town of Sonson.

At year's end, the authorities had not yet captured two members of the FARC's 32nd Front, including Arley Leal and Milton de Jesus Tonal Redondo ("Joaquin Gomez" or "Usurriaga"), head of the FARC's southern bloc, in connection with the September 1998 murder of Father Alcides Jimenez in Putumayo.

The Ministry of Defense reported that security forces killed 970 guerrillas and captured 1,556 guerrillas during the year. The Prosecutor General's office reported that at year's end, it had open investigations of 353 guerrillas, had 53 guerrillas in custody, and had 252 warrants for the arrest of guerrilla leaders.

Approximately 80 cases regarding Colombia were before the InterAmerican Commission on Human Rights (IACHR) at year's end. The great majority involved violations of the right to life. At year's end, the IACHR was expected to make a decision about whether to move a case involving paramilitary and military involvement in the 1996 killing of 19 merchants to the InterAmerican Court of Human Rights.

The IACHR continued the process of trying to reach an amicable settlement of the Patriotic Union's 1996 complaint charging the Government with "action or omission" in what the UP termed "political genocide" of the UP and the Communist Party. As part of the process, since June the Government has provided protection through the Interior Ministry to surviving UP and Communist Party members. Despite these efforts, at least two UP members reportedly were killed during the year.

There continued to be incidents of social cleansing—including attacks and killings—directed against individuals deemed socially undesirable, such as drug addicts, prostitutes, transvestites, homosexuals, beggars, and street children. The Colombian Commission of Jurists did not attribute any social cleansing killings to security forces during the period from October 1999 through March; it attributed 118 social cleansing killings to paramilitary groups and 2 such killings during this period to the guerrillas.

*b. Disappearance.*—The 1991 Constitution and the law explicitly prohibit "forced disappearance;" however, it continued to be a problem. On May 30, Congress codified forced disappearance, genocide, torture, and forced displacement as crimes, permitting such cases to be tried in the civilian judiciary. On Jrrer-s crimes, per-

), head of the FARC

In May the Prosecutor General indicted retired Colonel Gonzalo Gil Rojas, former commander of the 20th Brigade, for responsibility in the 1989 kidnaping of Amparo Tordecillo Trujillo, a former EPL member; in December the charges were dismissed. The Prosecutor General also indicted in absentia former 20th Brigade members retired Captain Mario Raul Rodriguez Reynoso and three noncommissioned officers; they remained at large at year's end.

The law prohibits kidnaping; however, it remained an extremely serious problem. Reforms to the Penal Code enacted in June increased the minimum sentence for simple kidnaping from 6 to 8 years; the maximum is 20 years. Police figures for the year, corroborated by Free Country Foundation (Fundacion Pais Libre), registered 3,706 kidnapings during the year, compared with 3,201 in 1999. Paramilitary groups kidnaped 280 persons, while criminals kidnaped 371 persons and another 944 persons were kidnaped by unknown persons or groups. Guerrilla groups were responsible for 2,104 cases. An estimated 164 minors were in captivity at year's end. GAULA members and other units of the security forces freed 507 persons during the year (including at least 48 children); 285 of the rescued victims were held by the ELN, 82 by the FARC, 44 by the EPL (Popular Liberation Army), and the remaining 96 by either paramilitary groups or common criminals. The GAULA reported that 173 people died in captivity during the year, a 33 percent increase over 1999. Arrests or prosecutions in any kidnaping cases were rare.

The Colombian Commission of Jurists attributed 145 forced disappearances to paramilitaries in the period from October 1999 through March. In many instances persons kidnaped by paramilitary groups later were found dead.

On March 9, a paramilitary group led by Jhon Jairo Esquivel Cuadrado kidnaped seven members of the CTI at Mingullo, Cesar department. Esquivel was captured in July and remained detained pending formal charges at year's end. There were no indications that the abducted investigators were still alive.

In May paramilitary forces kidnaped and raped journalist Jineth Bedoya (see Section 2.a.).

On June 19, Carlos Castano's AUC paramilitary group kidnaped Antioquia Deputy Guillermo Leon Valencia Cossio, brother of the Government's negotiator in the peace process with the FARC, Fabio Valencia Cossio, but released him on June 23.

In October the AUC paramilitary group kidnaped seven members of Congress, including former Senate President Miguel Pineda and Zulema Jattin, a member of a congressional peace commission, and demanded that the AUC be consulted in the peace process. The Government refused to open discussions with the AUC, but Interior Minister Humberto de la Calle negotiated the hostages' release with Castano.

Kidnaping continued to be an unambiguous, standing policy and major source of revenue for both the FARC and ELN. In April the FARC announced "Law 002," which required persons with more than \$1 million in assets to volunteer payment to the FARC or risk detention. According to Pais Libre, politicians, cattlemen, children, and businessmen were guerrillas' preferred victims. The FARC often purchased victims kidnaped by common criminals; the FARC then negotiated ransom payments with the family.

On March 22, the FARC kidnaped 9-year-old Clara Oliva Pantoja and did not release her until December 19. On April 7, the FARC kidnaped 3-year-old Andres Felipe Navas; he had not been released by year's end. Both children reportedly were held in the FARC demilitarized zone. Several released kidnaped victims claim that the FARC is holding more than 200 persons in the despeje zone.

In March the ELN kidnaped 25 electrical company workers at Guatape, Antioquia. The kidnapings were part of the ELN's campaign against the country's civilian electrical infrastructure.

On September 17, the ELN kidnaped over 50 patrons of Cali restaurants. Roughly a dozen were released within a few days. After combined negotiation and military pressure, the remaining survivors were released by November, although three had died while in captivity due to illness after lengthy forced marches while the kidnapers attempted to evade the army. Over the objections of the army commander in charge of rescue, the Government allowed the captors to remain free in return for release of the remaining hostages. Brigadier General Jaime Canal Alban, commander of the 3rd Brigade, resigned to express his disagreement with the Government's decision.

On November 28, unknown assailants kidnaped 18-year-old Juliana Villegas, daughter of the head of the National Association of Industrialists, a strong supporter of the peace process; guerrillas were suspected.

Guerrillas continued to kidnap political leaders. For example, in October the FARC kidnaped a gubernatorial candidate in northern Choco department, Senator Juan Mesa, and Antioquia assemblyman Alvaro Velasquez. The Federation of Colombian Municipalities reported that at least 20 mayors were kidnaped during the

year, nearly all by guerrilla groups. Many more unreported kidnappings of short duration may have been carried out. In response to this situation, some rural mayors fled to major cities, where they continued to conduct municipal business via telephone and facsimile. Guerrillas also kidnapped journalists (see Section 2.a.).

The FARC, the ELN, and other guerrilla groups regularly kidnapped foreign citizens throughout the year; some were released after weeks or months of captivity. For example, in July a representative of Doctors without Borders was kidnapped by a fringe guerrilla group and had not been heard from at year's end. In August the ELN captured and held 26 university professors and students, including several foreigners, for several days before releasing the group.

On April 8, the DAS captured ELN leader Ovidio Antonio Parra Cortes, who had been sought for his role in directing the May 1999 kidnapping of 174 persons from Cali's La Maria Catholic Church. The army's Third Brigade also arrested seven men believed to have helped carry out the La Maria hostage-taking.

By year's end, all of the 41 occupants of an airplane hijacked by the ELN in April 1999 had been released; 1 died in captivity in 1999 due to a lack of needed medications.

Despite government search efforts and continued pressure by the Government on the FARC to account for three American missionaries kidnapped by FARC guerrillas in January 1993, their whereabouts and condition remained unknown.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution and criminal law explicitly prohibit torture, as well as cruel, inhuman, or degrading treatment or punishment; however, police and military torture and mistreatment of detainees continued. On May 30, Congress codified torture as a crime (see Section 1.b.), and the reformed Military Penal Code directed that cases of torture involving military and police defendants be tried in the civilian, rather than the military, courts. The Attorney General's office, which only can sanction administratively or refer to the Prosecutor General's office those it finds guilty, did not sanction any security force members for torture during the year. Contrary to previous years, the Attorney General's office, which received 119 complaints of torture in 1998, did not receive any complaints of torture by state agents during the year. The Colombian Commission of Jurists reported one case in the period from October 1999 to March. During the first 9 months of the year, CINEP reported that 79 persons were injured by state forces. During the year, the Military High Court convicted 52 service members for causing injuries.

The Colombian Commission of Jurists reported that from October 1999 through March, 136 corpses of persons presumed killed by paramilitary forces showed signs of torture; there were 14 similar cases attributed to guerrillas; one case attributed to an unidentified unarmed group; and none by the State. Of victims who survived torture, the Commission attributed one case to public security forces and four cases to paramilitary groups. In March the Ministry of Defense reported that the Superior Military Tribunal convicted 53 service members for inflicting bodily injuries.

On March 10, a Bogota prosecutor issued an arrest warrant for four policemen for allegedly beating detainees Jorge Amilkar Murcia, Juan Antonio Rodriguez Ochoa, and a third unnamed victim, taking them to a bridge, and forcing them to jump. Rodriguez survived and reported the crime to the authorities; Murcia's body was never found.

According to Human Rights Watch, on June 18, troops from the Rebeiz Pizarro Battalion fired upon a car carrying six adults and two children; all occupants were wounded.

In December the Prosecutor General's human rights office indicted Colonel Jose Ancizar Molano Padilla (then-commander of the 2nd Marine infantry battalion), Captain Alvaro Hernando Moreno, Captain Rafael Garcia, Lieutenant Carlos Eduardo Jaramillo, and four noncommissioned officers for torturing 12 marines with asphyxiation and electric shocks in December 1995. The victims were tortured to determine the whereabouts of two lost assault rifles. Colonel Molano and his accused subordinates remained in detention and are expected to be tried in a civilian court. In December the Attorney General's office concluded its investigation of the same incident and ordered a 3-month suspension from duty for Colonel Molano. It also suspended Captain Moreno, Lieutenant Jaramillo, seven noncommissioned officers, and one private.

Four Venezuelans arrested in May 1999 in the course of a military antiguerrilla operation who subsequently claimed that the 3rd army Special Forces Battalion tortured and inflicted other cruel, inhuman, and degrading punishment against them were remanded to the custody of the Venezuelan Embassy and finally allowed to return to Venezuela. The Venezuelan Government also asked for an investigation in relation to five other persons who were with these four men at the time of their

capture. The bodies of two of these five persons subsequently were found in a river; the other three allegedly disappeared following the operation.

Paramilitary groups increasingly used threats both to intimidate opponents and to raise money. Letters demanding payment of a war tax and a threat to mark victims as a military target if they failed to pay were typical. In 1999 CINEP reported that nearly half of those threatened were public school teachers and that approximately half of all threat recipients were residents of Antioquia department.

Guerrilla groups also tortured and abused persons. The bodies of many persons detained and subsequently killed by guerrillas showed signs of torture and disfigurement. For example, one soldier captured by the FARC was subjected to several machete blows to the head until the entire left side of his head was destroyed. While he was still alive, his genitalia were cut off and acid was poured on his face. The military reported that another soldier and his brother were captured by the FARC while on a bus, subsequently were tortured and decapitated, and their heads were sent to their father inside a box. The Colombian Commission of Jurists reported 17 cases of torture by guerrillas during the period from October 1999 to March.

Guerrillas also routinely used threats, both to intimidate opponents and to raise money, and—like the paramilitary groups—sent letters demanding payments of a war tax, along with threats to make persons military targets. Guerrillas also killed, kidnapped, and threatened mayoral candidates (see Section 3).

According to press reports, in July explosive devices damaged three businesses in downtown Barrancabermeja, Santander department. The authorities stated that the ELN demanded that local businessmen attend a mandatory meeting and that the bombs were punishment against those who failed to attend. In April the FARC announced “Law 002,” which required persons with more than \$1 million in assets to volunteer payment to the FARC or risk detention. In August the FARC bombed as many as 13 businesses in Medellin in retaliation for nonpayment of a FARC-imposed “war tax.”

Prison conditions are harsh, especially for those prisoners without significant outside support. Severe overcrowding and dangerous sanitary and health conditions remained serious problems. In December 1997, a visiting IACHR mission declared that the living conditions in Bogota’s La Picota prison constituted “cruel, inhuman, and degrading treatment of the inmates,” and these problems continue. Prison guards from the INPEC report to the Ministry of Justice. There are approximately 7,000 prison guards. Guards and prison staff frequently are untrained or corrupt. In response to what was called a “disciplinary emergency,” INPEC’s disciplinary office reported in September that it had removed 159 prison guards and was investigating 651 INPEC officials for irregularities in performing their duties. Prisoners are suspected of killing or ordering the killing of 22 guards in 1999.

According to the Committee for Solidarity with Political Prisoners, a majority of prisoners’ food was provided by outside, private sources. In 1999 INPEC reported that the daily food allowance for each prisoner was \$1.44 (2,700 pesos). According to INPEC, the country’s prisons and jails held approximately 50,702 inmates at year’s end, significantly more than their capacity of 31,000 persons. The addition of a new prison in Valledupar, Cesar department, and the renovation of other facilities added 3,000 spaces over the past 3 years but was offset by an increase of approximately 10,000 prisoners over the same period. According to the Ministry of Defense, 20 percent of the country’s inmates are in the 10 most crowded prisons, which have an average occupancy rate of 200 percent. In a number of the largest prisons, overcrowding was severe. Medellin’s Bellavista prison, the country’s largest, was built to house 1,800 inmates; at year’s end, it housed 6,575 inmates. Bogota’s La Modelo prison had a 169 percent occupancy rate, and the Palmira prison outside Cali held 192 percent above its planned capacity.

In February the Justice Ministry announced a plan to renovate prisons and build 11 other new prisons over the next 3 years, expanding prison capacity by 18,000 persons. In July Congress approved the financing of the remaining announced facilities. Only 8,000 prisoner accommodations met international standards. A total of 17.8 percent of the country’s prisons were between 40 and 80 years old, 3.5 percent were between 80 and 201 years old, and 2.4 percent were more than 201 years old.

In November approximately 12,000 women and children, who were visitors to the prisons, protested prison conditions by spending 72 hours inside 7 prisons, including Bogota’s La Modelo. The Government negotiated with inmate representatives and human rights NGO’s to ensure the peaceful exit of the protesters by agreeing to convoke the National Roundtable on Penitentiary Work, an intersectoral commission that includes inmate representatives, in December.

An estimated 42 percent of all prison inmates are pretrial detainees. The remaining 58 percent are split roughly between those appealing their convictions and those who have exhausted their appeals and are serving out their terms. There are no

separate facilities for pretrial detainees and convicted prisoners. According to the Ministry of Defense, 4,145 persons (8 percent of inmates) are in pretrial detention in police stations. Despite an August 1999 Constitutional Court ruling which obligated the transfer of detainees from overcrowded police station holding cells to prisons, Bogota's 21 police stations still hold 1,657 prisoners awaiting transfer to prisons.

Local or regional military and jail commanders did not always prepare mandatory detention registers or follow notification procedures; as a result, precise accounting for every detainee was not always possible.

There are separate prison facilities for women, and in some parts of the country, separate women's prisons exist. Conditions at women's prisons are similar to those at men's prisons but are far less violent. According to the Criminal Procedures Code, no one under the age of 18 may be held in a prison. Juveniles are held in separate facilities operated by the Colombian Institute for Family Welfare (ICBF).

The reformed Penal Code requires sentences of 3 to 6 years for prison escapes. Escapes from prison continued to be a problem. There were six major riots in prisons. On February 3, six prisoners were killed and two were wounded during a confrontation between members of paramilitary groups and guerrillas at Bogota's La Picota Prison.

In April members of paramilitary groups and guerrillas engaged in a 12-hour battle inside Bogota's La Modelo prison, ending a 2-month truce, and employed a wide variety of firearms and other weapons. Thirty-two inmates were killed, and 35 were wounded. In response, 1,200 members of the National Police entered La Modelo prison to retake control. Among prohibited items found were cellular telephones, handguns, shotguns, assault rifles, hand grenades, explosives, dogs trained to attack, illicit drugs, and alcohol. Police found a sauna and gym in a FARC commander's cell and also discovered a working brothel. Authorities brought a variety of charges, including homicide and rape, against 20 prisoners. In July Jorge Ospina Trujillo, reportedly a member of a paramilitary group, escaped from the Bellavista prison in Medellin, Antioquia department. According to the authorities, Ospina was one of the prisoners responsible for the April massacre in La Modelo prison in Bogota.

Guerrillas launched several attacks against prisons holding guerrilla prisoners, facilitating numerous escapes. For example, during its April 2-3 offensive, the ELN attacked a prison at Cucuta, Norte de Santander department, initiating the attack with a car bomb. Some 75 prisoners, including approximately 50 ELN and FARC guerrillas, escaped. Four prisoners were killed and four prisoners were wounded in the fighting.

Key narcotics traffickers and some guerrilla leaders obtain cells with many comforts, some of which—such as access to two-way radios, cellular telephones, and computers—allowed them to continue their illegal activities from inside jail. In July the authorities dismantled a sophisticated telecommunications center in the district and Picalena prisons in Ibague, Tolima, department. Fortysix prisoners between the 2 prisons used cellular telephones to extort money or negotiate ransom. To prevent this type of activity, on July 27, President Pastrana announced that he would issue a resolution making it mandatory for telephone companies to provide caller identification service to all customers.

The International Committee of the Red Cross (ICRC) continued to have routine access to most prisons and police and military detention centers.

The ICRC continues to have ad hoc access to civilians held by paramilitary groups and guerrilla forces. However, it has not been granted access to members of the police or military who are held by guerrilla groups.

*d. Arbitrary Arrest, Detention, or Exile.*—The Constitution includes several provisions designed to prevent illegal detention; however, there continued to be instances in which the authorities arrested or detained citizens arbitrarily.

The law prohibits incommunicado detention. Anyone held in preventive detention must be brought before a prosecutor within 36 hours to determine the legality of the detention. The prosecutor must then act upon that petition within 36 hours of its submission. Despite these legal protections, instances of arbitrary detention continued.

Conditional pretrial release is available under certain circumstances, for example, in connection with minor offenses or after unduly lengthy amounts of time in preventive detention. It is not available in cases of serious crimes, such as homicide or terrorism.

Guerrillas, particularly the FARC, pressed the Government and Congress to adopt a permanent prisoner exchange law. Initiating regular prisoner exchanges remained a top guerrilla priority and featured prominently in the FARC's negotiating points at the peace talks. Neither the Congress nor the Government attempted to pass



such legislation, and there was minimal popular support for it during much of the year. On September 27, the Attorney General proposed the implementation of an existing law that allows for the exchange of prisoners during armed conflict. In October the public debate on prisoner exchange revived when photographs emerged of 261 police and military hostages being held in outdoor fenced enclosures. The U.N. High Commissioner for Human Rights (UNHCHR) expressed deep concern for the well-being of the hostages and called on the FARC to permit ICRC access. At year's end, 527 soldiers and police are presumed held by the FARC and ELN, and the ICRC had not been permitted access to them.

The Constitution prohibits exile, and forced exile is not practiced by the State. However, there were repeated instances of individuals pressured into self-exile for their personal safety. Such cases included persons from all walks of life, including politicians, human rights workers, slum-dwellers, business executives, farmers, and others. The threats came from various quarters: some individual members of the security forces, paramilitary groups, guerrilla groups, narcotics traffickers, other criminal elements, or combinations of the above.

*e. Denial of Fair Public Trial.*—The civilian judicial system, reorganized under the 1991 Constitution, is independent of the executive and legislative branches both in theory and in practice; however, the suborning or intimidation of judges, witnesses, and prosecutors by those indicted or involved is common. The Human Rights Ombudsman's office reported receipt of 773 complaints of denial of the right to due legal process during 1999, the most recent year for which statistics were available. The office received 1,353 complaints in 1998.

The judiciary includes the Constitutional Court, Supreme Court of Justice, and the Council of State, the Superior Judicial Council, and lower courts. The Prosecutor General's office is an independent prosecutorial body that brings criminal cases before the courts. Article 234 of the new Military Penal Code states that the Supreme Court (not the Superior Military Tribunal) has first instance jurisdiction in cases involving criminal acts by generals, admirals, major generals, vice-admirals, brigadier generals, rear admirals, and magistrates and prosecutors of the Superior Military Tribunal. Cases that already were in their trial phase by August 12, 1999, must continue under the old military penal code; however, this article applies to all cases brought to trial after that date, regardless of when the crime was committed. Article 234 also states the Supreme Court is the court of second instance review of rulings by the Superior Military Tribunal, effectively asserting the authority of the Supreme Court—a body composed entirely of civilian magistrates over the military judiciary. The Council of State is the appellate court for civil cases. The Constitutional Court adjudicates cases of constitutionality, reviews all decisions regarding writs of protection of fundamental rights (“tutelas”), and reviews all decisions regarding motions for cessation of judicial proceedings. Jurisdictional clashes among the Constitutional Court, Supreme Court of Justice, the Council of State, and the Superior Judicial Council were common, due to the lack of a single supreme judicial authority capable of deciding issues of jurisdiction or constitutional interpretation.

The CSJ, which oversees the administration of the judiciary, also has the responsibility of determining whether individual cases involving members of the security forces are to be tried in civilian or military courts. On August 17, President Pastrana issued a directive to the armed forces and the police that stated that the new Military Penal Code “excludes from military criminal jurisdiction the crimes of genocide, torture, and forced disappearance” and that “acts against humanity do not fall under the jurisdiction of the military courts.” The directive also “raises to the category of law” a 1997 Constitutional Court decision that serious human rights violations and other crimes not directly related to acts of service must be tried by civilian courts.

On April 6, the Constitutional Court overturned much of the 1999 law that had created the specialized jurisdiction (which had replaced the anonymous (“faceless”) regional courts system on July 1, 1999). The Constitutional Court found that defendants have the right to know the identity of their accusers and that elements of the law that permitted some prosecutors and witnesses to remain anonymous under exceptionally dangerous circumstances were unconstitutional. The Court ruled that specialized jurisdiction judges and prosecutors no longer could transfer cases to other colleagues when they believed their own security to be at risk. The Court also ruled that persons detained for any of the crimes designated in the legislation may request to be confined in their homes and may request special permission to go to work, as is the case in the regular civilian judiciary. The Court permanently closed the appeals court for the specialized jurisdiction. The remaining first instance specialized jurisdiction courts continued to have responsibility for trying certain crimes, including crimes of kidnapping, hijacking, paramilitarism, narcotics trafficking, money laundering, and human rights abuses. Specialized jurisdiction prosecutors

still are permitted 12 months to investigate and develop cases, rather than the 6 months afforded to regular civilian judiciary prosecutors.

As part of the Ministry of Defense, the military judiciary falls under the executive branch, rather than under the judicial branch. The armed forces commander is also the president of the military judiciary. The workings of the military judiciary lack transparency and accountability, contributing to a generalized lack of confidence in the system's ability to bring human rights abusers to justice. On August 12, a new Military Penal Code replaced the outdated one, which predated the 1991 Constitution and did not contemplate some contemporary crimes. (President Pastrana signed it into law in August 1999.) The Constitutional Court ruled that no implementing legislation was needed and instructed the Ministry of Defense to implement the new Military Penal Code. Provisions of the new code include the following: unit commanders no longer may judge their subordinates; an independent military judicial corps is to be created; and service members are to be protected legally if they refuse to carry out illegal orders to commit human rights abuses. The reformed code states that torture, genocide, and forced disappearance could never be related to "acts of service," which is the constitutional standard for trying crimes in the military judiciary, and stipulates that these crimes therefore always must be tried in the civilian judiciary (see Sections 1.a. and 1.b.). The reformed Military Penal Code also gives representatives of the civilian judiciary the right to be present at military trials of military personnel.

The new military justice system is composed of magistrates of the Military Court of Appeals, lower military court judges, investigating judges, prosecutors, and judge advocates (*auditor de guerra*) at the General Inspector, division, and brigade levels. Brigadier General Jairo Pineda was appointed to head the Executive Directorate of the military penal justice system and is to report directly to the Minister of Defense, a civilian. Military prosecutors report to Brigadier General Pineda, not to unit commanders as under the previous system.

According to press reports, on August 16, the Military Penal Tribunal appointed its first three prosecutors as part of the new Military Penal Code. New prosecutors also were appointed for the military forces as a whole and one for each branch of the military and the police. On August 17, the prosecutors began to analyze and rule in military proceedings.

A 1997 Constitutional Court decision directed the military judicial system to relinquish to the civilian judiciary the investigation and prosecution of serious human rights violations and other alleged crimes not directly related to acts of service—the 1991 constitutional standard for determining whether a case should be tried by the military or civilian judiciary. The CSJ assigned most cases involving high-level military personnel to the military courts, where convictions in human rights-related cases were the rare exception. According to the 1991 Constitution, general-rank officers are to be tried by the Supreme Court; however, that provision was ignored in practice. No definitive court ruling has resolved various judicial interpretations of the provision; however, a majority of decisions appear to suggest that this provision applies only to full generals. The Court ruled that military justice was the exception to the general rule and that, in the case of doubt, jurisdiction should be assigned to the civilian system. In determining which alleged crimes were to be tried by military tribunals, the CSJ sometimes employed a broad definition of acts of service, thus ensuring that uniformed defendants of high rank, particularly the most senior, were tried in military tribunals. During the year, the CSJ assigned two key cases to civilian jurisdiction: the case against Major Clavijo and the Nydia Bautista case (see Section 1.a.). In addition, CSJ figures quoted by the Ministry of Defense indicated that, where conflicts of jurisdiction arose, the total number of cases assigned to military courts dropped from 50 percent in 1992 to approximately 15 percent in 2000, while cases assigned to civilian jurisdiction rose from 40 percent in 1992 to 60 percent over the same period.

According to figures released by the Ministry of Defense in December, since the 1997 Constitutional Court decision, the military judiciary has transferred 1,136 cases to the civilian judicial system; there was no information available as to how many of these cases dealt specifically with human rights abuses or violations of international humanitarian law, nor how many cases remained in the military judicial system. However, a March report by the Ministry of Defense reports that 41 percent of the cases transferred involved serious crimes such as homicide, torture, illegal detentions, and infliction of bodily injuries; the rest were common crimes. Out of the total of 1,307 police and military cases transferred, 496 cases were transferred during the year, 79 in 1999, 266 in 1998, 295 in 1997, and 171 cases were transferred on an unknown date. According to year-end report of the Ministry of Defense, the military judiciary during the year found 122 members guilty of violating

"human or fundamental rights." The average prison sentence was 58 months for homicide and 15 months for inflicting bodily injury.

The military judiciary demonstrated an increased willingness during the year to turn cases of military officers who were accused of human rights violations or criminal activities over to the civilian judiciary; however, such officers generally were of lower rank. A July CSJ ruling suggested that it considered itself bound by the Constitutional Court's 1997 decision that certain human rights violations could not be considered acts of service and therefore must be tried in civilian courts. Between January and November, 80 cases were transferred.

In October 1998, the CSJ had determined that Brigadier General Fernando Millan Perez's alleged organization of a paramilitary group constituted an act of service and therefore had turned General Millan's case over to the military judiciary for prosecution (see Section 1.a.). In reaching its decision, the CSJ had determined that it was not bound by the Constitutional Court's narrow 1997 interpretation of the 1991 constitutional standard of relation to acts of service. The CSJ's decision effectively ended the Prosecutor General's investigation into whether General Millan had provided weapons and intelligence to paramilitary groups in Santander department.

On September 14, President Pastrana signed 12 decrees to reform and strengthen the military. One decree provides for the separation from service of all uniformed members of the military regardless of their time in service, at the discretion of the top military commanders. Previously, the Minister of Defense could at his discretion separate from service only those who had served at least 15 years in the military. Other decrees establish three levels of misconduct and the crimes classified at each level. A total of 27 crimes are punishable with immediate dismissal; these include: Torture, forced disappearance, genocide, facilitating by any means the knowledge of protected information or access to classified documents without authorization, failure to enter into combat or to pursue the enemy having the capacity to do so, and retreating before the enemy or abandoning post without having used elements of defense that might be available. A higher-ranking officer such as a unit commander is granted initial authority to issue disciplinary sanctions. Those under investigation may be suspended for up to 90 days with half pay; those suspended may perform administrative duties. The decrees also state that in the event that another authority should be informed of crimes, the military must inform that authority and provide all relevant information to it. Another decree states that, with limited exceptions, any officer sentenced to prison by the military or the civilian justice system is to be separated from service.

On October 16, the military dismissed 388 members of the armed forces, including 89 officers. According to press reports, these included 2 lieutenant colonels and 15 majors. No information was available from the Ministry of Defense regarding the specific reasons for any of the dismissals, nor were their names announced; it was not known how many were dismissed due to allegations that they were responsible for human rights abuses or for collaborating with paramilitary groups in such abuses.

In cases in which military officers were tried, convicted, and sentenced for human rights violations, they generally did not serve prison terms but were confined to their bases or military police detention centers, as permitted by law. Military prisoners remain on active duty (and reduced pay) while in detention but are relieved from command responsibilities. In other cases members of the military can be suspended pending investigation, as occurred in the August Pueblo Rico killings (see Section 1.g.). Some perform administrative functions while in detention. Armed Forces Commander General Tapias cited a lack of adequate military prison facilities as a primary cause for escapes from military detention areas. For example, on March 14, suspected Casanare department paramilitary leader Humberto Caicedo Grosso escaped from military confinement at the 14th Brigade's headquarters. The authorities detained five brigade members for failing to stop Caicedo's escape.

The Constitution provides for a special criminal and civil jurisdiction within Indian territories based upon traditional community laws (see Section 5).

Judges have long been subject to threats and intimidation, particularly when dealing with cases involving members of the public security forces or of paramilitary, narcotics, and guerrilla organizations. Violent attacks against prosecutors and judges continued, and prosecutors, judges, and defense attorneys continued to be subjected to threats and acts of violence. On April 3, specialized jurisdiction prosecutor Margarita Maria Pulgarin Trujillo was killed in Medellin; AUC members were the prime suspects in her killing. Prosecutors reported that potential witnesses in major cases often lacked faith in the Government's ability to protect their anonymity and were thus unwilling to testify, ruining chances for successful prosecutions. In June Congress approved Penal Code and Penal Procedural Code reforms

that created a number of new crimes such as genocide (see Section 1.b.), but reduced the sentences for a number of serious crimes, including kidnaping and extortion, and the amount of time served necessary for parole. The new Penal Code and Procedural Code are scheduled to go into effect in 2001. It still was difficult for defense attorneys to impeach or cross-examine anonymous witnesses, and often the defense attorneys did not have unimpeded access to the State's evidence.

The Attorney General's office investigates misconduct by public officials, including members of the military and police. The Attorney General's office can draw upon a nationwide network of hundreds of government human rights investigators covering the country's 1,085 municipalities. The office received 78 complaints related to massacres and forced disappearances during the year. Approximately 75 percent of these complaints involved the army (particularly in Putumayo, Antioquia and southern Bolivar departments); the other 25 percent implicated police or DAS officials. Its constitutional mandate only provides for the imposition of administrative sanctions; it has no authority to bring criminal prosecutions or impose criminal sanctions but can refer all cases to the Prosecutor General's office for investigation. Contrary to previous years, the Attorney General's office referred all cases of human rights violations received during the year to the Prosecutor General for investigation. The Attorney General's office reported that the majority of these cases are investigated by the Prosecutor General's office.

In August a judge convicted of "corrupt practice" for her 1999 exoneration of billionaire emerald magnate Victor Carranza on charges of paramilitarism was released after serving less than half of her 46-month term. Carranza remained in prison due to his prior convictions for homicide and kidnaping.

The Supreme Court elects the Prosecutor General for a 4-year term, which does not coincide with that of the president, from a list of three candidates chosen by the President. The Prosecutor General is tasked with investigating criminal offenses and presenting evidence against the accused before the various judges and tribunals. However, this office retains significant judicial functions and, like other elements of the civilian judiciary, it is struggling to make the transition from a Napoleonic legal system to a mixed one that incorporates an adversarial aspect.

In an attempt to deal with impunity, the Prosecutor General in 1995 created a special human rights unit as part of the regional courts system. The unit has achieved significant results; as of November, its group of 30 anonymous prosecutors had handled 918 cases involving massacres, extrajudicial killings, kidnapings, and terrorism during the year. These prosecutors have issued arrest warrants against members of the security forces and of paramilitary, guerrilla, and drug trafficking organizations. The unit arrested 192 suspects during the year.

During the year, the human rights unit of the Prosecutor General's office investigated, indicted, or prosecuted 286 security force members, including at least 11 officers, on a variety of charges including homicide, torture, kidnaping, and sponsorship of paramilitary groups. The Attorney General's office and the security forces demonstrated a greater willingness to follow up with instructions that those ordered arrested be removed from their duties, denied the right to wear a uniform, or turned over to civilian judicial authorities. However, impunity continued to be very widespread.

The Constitution specifically provides for the right to due process. Judges determine the outcome of all trials; there are no jury trials. The accused is presumed innocent until proven guilty and has the right to representation by counsel, although representation for the indigenous and the indigent historically has been inadequate. In mid-1999, the CSJ's administrative chamber reported that the civilian judiciary suffered from a backlog of approximately 3,069,000 cases (including approximately 604,000 penal cases) and that there were approximately 338,000 outstanding arrest warrants. Approximately 223,000 writs for protection of fundamental rights ("tutelas") were before the Constitutional Court for its legally mandated review.

Defendants in trials conducted by the regular courts have the right to be present and the right to timely consultation with an attorney. Regular court defendants and their attorneys have the right to question, contradict, and confront witnesses against them, to present witnesses on their own behalf, and to have access to government evidence relevant to the case. The country's judiciaries, including regular civilian, specialized jurisdiction, and military, continue to be overwhelmingly Napoleonic in character; everything is processed in writing. Public trials are still rare, and there are no juries; however, cross-examination of witnesses does occur. Defendants also have the right to appeal a conviction to a higher court.

In addition to providing public defense attorneys in criminal cases, the Human Rights Ombudsman's 34 departmental and regional offices throughout the country provide a legal channel for thousands of complaints and allegations of human rights

violations. However, in practice, the Ombudsman's operations are underfunded and understaffed, slowing its development of a credible public defender system.

Within the FARC-controlled despeje zone, local FARC leaders effectively supplanted judicial authorities and declared the establishment of an alternative, FARC-run "justice system." Residents of the zone regularly were denied the right to a fair trial. In the face of FARC intimidation, all elements of the civilian judiciary fled the zone. In 1999 Prosecutor General Alfonso Gomez Mendez publicly said that they would return only "when accompanied by the security forces." In September the FARC gave haven to a FARC guerrilla who had hijacked an airplane and refused to release him to government authorities. Continuing concern about arbitrary FARC justice in the zone led the authorities to stress that governmental justice must be present.

The Government states that it does not hold political prisoners. The ICRC reported that it monitored approximately 3,900 cases of imprisoned citizens accused of terrorism, rebellion, or aiding and abetting the insurgency, which are crimes punishable under law.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The law provides for the protection of these rights; however, at times the authorities infringed upon them. The law generally requires a judicial order signed by a prosecutor for the authorities to enter a private home, except in cases of hot pursuit. The Ministry of Defense continued training public security forces in legal search procedures that comply with constitutional and human rights. Due to intimidation, corruption, or the absence of evidentiary proof collected directly by prosecutors, guerrilla suspects captured by the security forces in or out of combat and turned over to the judicial authorities routinely were set free.

A judicial order or the approval of a prosecuting attorney is required to authorize the interception of mail or the monitoring of either landline or cellular telephones. This protection extends to prisoners held in jails. However, various state authorities sometimes monitored telephones without obtaining prior authorization. There were unconfirmed reports by some human rights groups that members of the security forces subjected them to surveillance, harassment, or threats.

A preliminary investigation begun by the Prosecutor General's anticorruption unit in December 1999 determined that elements of the Administrative Department of Security had engaged in illegal wiretapping in Bogota over the course of several years. As of April, eight DAS officers were in custody, and another officer was sought. Having found sufficient evidence, on June 20, the Prosecutor General opened a formal investigation. This was the first instance in which the Prosecutor General pressed charges against a state entity for interference with privacy. The investigation continued at year's end.

Guerrillas also used wiretaps and accessed bank accounts of citizens at roadblocks in order to select kidnap victims.

There are some child soldiers among the paramilitary groups, who were recruited forcibly (see Sections 1.g. and 5).

Guerrillas regularly forcibly recruited children and indigenous people to serve as soldiers (see Sections 1.g and 5).

*g. Use of Excessive Force and Violations of Humanitarian Law in Internal Conflicts.*—The internal armed conflict and narcotics trafficking are the central causes of violations of human rights and international humanitarian law. Government security forces at times violated international humanitarian law and continued to commit serious human rights abuses, although the great majority of serious abuses were committed by paramilitary groups and guerrillas.

In October the ICRC suspended evacuations of wounded combatants after the murder of a wounded guerrilla by paramilitary forces near Apartado, Uraba region, Antioquia department, and of a wounded member of a paramilitary group by guerrillas in Putumayo. In both cases the victims forcibly were taken from ICRC vehicles. The ICRC resumed medical evacuations of combatants in December.

On February 24, the Government announced the creation of an interagency intelligence committee, chaired by the Minister of Defense and including members of the police, the Prosecutor General's office, the Attorney General's office, and the DAS, to improve the State's ability to track down and engage or capture members of paramilitary groups. However, at year's end there was little tangible evidence that the committee was functioning.

The ICRC reported that the Government, including military authorities, followed an open-door policy toward the ICRC and readily incorporated Red Cross curriculums on international humanitarian law in standard military training. However, impunity remains a problem. According to military sources, local commanders typically preferred to transfer or discharge soldiers accused of serious human rights violations, rather than initiate legal proceedings. On May 30, Congress passed legislation

that codified forced displacement as a crime and provided for sentences of between 15 and 40 years' imprisonment; the legislation also codified genocide and forced disappearance as crimes (see Section 1.b). Departing from the historical, internationally accepted definition of genocide, and in response to the killings of thousands of members of the Patriotic Union leftist coalition (see Section 1.a.), the law codified "political genocide" as a crime. However, it stipulated that political genocide could be committed only against members of legally constituted (i.e., nonguerrilla) groups.

On August 15, an army unit of 30 soldiers operating near Pueblo Rico, Antioquia, mistook a party of schoolchildren for a guerrilla unit and opened fire, killing 6 children between the ages of 6 and 10, and wounding 6 others. According to press interviews, the soldiers did not realize at the time that the persons that they were shooting were children. On September 28, a military justice panel provisionally disassociated 14 of the soldiers and allowed them to return to duty. The remaining 16 soldiers, including patrol commander Sergeant Jorge Enrique Mina Gonzalez, remained under investigation at year's end. On December 22, the Attorney General charged Sergeant Mina, and corporals Avilio Pena Tovar and Ancizar Lopez, stating that the three confused a 15-year-old girl in the group with a guerrilla but that they willfully used indiscriminate force. The Attorney General's office exonerated the other 27 soldiers involved in the incident. The Prosecutor General's office determined that the act was unintentional harm caused in the course of duty and referred the case to the military justice system, where it remained at year's end.

In May the human rights unit of the Prosecutor General's office recommended that the air force reopen its investigation into the December 1998 Santo Domingo, Arauca department, incident in which an air force helicopter was accused of bombing civilians in the course of combat with the FARC. A total of 19 civilians were killed, and 25 others were wounded. The Prosecutor General's office based its recommendation on new evidence after the office subpoenaed three helicopter crew members and obtained an analysis of metal shards. An air force commander reportedly charged the FARC with planting shards at the scene. In December the air force revisited the zone prior to making a decision on whether to open formally an investigation. In November the Attorney General's office charged air force lieutenants Johan Jimenez Valencia and Cesar Romero Pradilla (the pilot and copilot of the helicopter) and flight technician Hector Mario Hernandez Acosta with indiscriminate use of force.

According to the Independent Advisory Committee for Human Rights and Displacements (CODHES), 317,340 displacements of civilians from their homes occurred during the year; government sources estimate that 125,000 persons were displaced. (Exact numbers of displaced persons are difficult to obtain because some persons were displaced more than once, and many displaced persons do not register with the Government or other entities.) According to CODHES, approximately 288,000 displacements occurred during 1999. As many as 1 million citizens may have been displaced since 1996. The ICRC provided emergency assistance to 135,000 displaced persons during the year. An alliance of human rights, religious, and aid organizations stated that an estimated 2 million persons had been displaced by political violence since 1985. CODHES states that some persons have been displaced for as long as 10 years, but it is unable to identify a typical timeframe for displacement. Some persons return to their homes within days or weeks, others within months, and some never return. Some displaced persons move several times after fleeing their original home, making tracking difficult. The Government does not consider persons to be displaced after 2 years. CODHES estimated that perhaps 65 percent of displacements became permanent. In an attempt to determine the true scope of the problem, the Government, in cooperation with the U.N. High Commissioner for Refugees (UNHCR), developed a computerized system for collecting data on the displaced and estimating total numbers.

The vast majority of displaced persons are peasants who have been displaced to cities, which have had difficulty integrating large numbers of persons into their infrastructure. According to CODHES, in 1999 approximately 53 percent of displaced persons were women and girls, 32 percent of displaced households were headed by women, and 70 percent of the displaced population were children. The Human Rights Ombudsman's office reported that only 15 percent of displaced children have access to schools. Many displaced persons settle on the outskirts of Bogota, Medellin, and Cartagena, where conditions are overcrowded and unsanitary, and smaller municipalities have been overwhelmed by the need for services. Malnutrition among displaced children is a problem. Many displaced persons lost access to health care, employment, and education (see Section 5). CODHES estimates that only 34 percent of displaced households have access to health services. According to the UNHCR, approximately one-third of displaced persons are indigenous people or blacks; these groups represent only 11 percent of the population. In 1999 the office

of the U.N. Commission on Human Rights received reports of threats and attacks against displaced communities and their leaders; threats against individuals and groups working with the displaced increased in 1999, especially in the regions of Magdalena Medio and Uraba.

Both paramilitary groups and guerrillas used forced displacements to gain control over disputed territories and to weaken their opponents' base of support. In some cases, entire towns were abandoned after paramilitary or guerrilla attacks. The authorities sometimes encouraged civilian populations to move back to their homes before security situations had normalized.

The Government's response to the needs of the displaced population continued to be inadequate. The Government has no systematic program or budget to make adequate provisions for humanitarian assistance to the displaced, although it is required by law and court decisions to do so. Conditions at the Government's two camps for displaced persons in Uraba, at Pavarando and Turbo, were poor and unhygienic; health care remained poor, and there were few educational or employment opportunities. However, conditions at a temporary government shelter for displaced persons at the stadium at Cucuta, Norte de Santander department, were much better. The Government provides assistance through the Solidarity Network, the ICBF, the Health Ministry, and other state entities. The Solidarity Network was neither designed nor prepared for emergency humanitarian assistance work, and it usually provided such assistance only to refugees returning to the country. In March 1999, the Government estimated that the ICRC provided 70 percent of humanitarian assistance received by displaced persons. Private estimates were higher. Most displaced citizens receiving ICRC emergency humanitarian assistance received it for only 90 days. The Government also tries to limit assistance to 90 days; however, some displaced persons in the camps at Turbo and Pavarando, and in a stadium in Cucuta, received aid for a longer period. During the year, ICRC provided emergency assistance to 130,000 internally displaced persons.

Hundreds of displaced persons also fled to Panama, Ecuador, and Venezuela, where they often were denied refugee status, treated as illegal immigrants, and denied protection or assistance, and often were returned to Colombia. The UNHCR has an office in Bogota to address the problem and opened field offices in Barrancabermeja in 1999 and in San Jose de Apartado, Uraba and in Puerto Asis, Putumayo during the year.

On January 4, a group of internally displaced persons violently took over the ICRC's Bogota offices; they injured 3 local ICRC employees and detained 37 ICRC workers for 13 hours, then allowed most staff to leave the building. On February 22, such a group again forcibly detained members of the ICRC staff, a representative from the Attorney General's office, and two journalists for 9 hours. Also on that day, members of the same group tried to occupy the Bogota headquarters of the Social Solidarity Network; the police arrested them. In April the ICRC abandoned offices in Bogota that had been occupied by approximately 60 internally displaced persons since December 1999. Despite a December Constitutional Court ruling that the Government should assist the group, at year's end, the group still occupied the old ICRC premises.

According to the Vice President's office, there are more than 70,000 antipersonnel landmines in the country, located throughout 135 municipalities in 23 departments. Some 20,000 mines are maintained by the military to defend static positions. According to the International Campaign Against Mines, 63 persons were killed by mines in 1999. The Ministry of Defense reported that 10 military personnel were killed or wounded by antipersonnel mines during the first 7 months of the year. There is no generalized mine clearance program. However, in January the army deactivated 20 guerrilla landmines in southern Bolivar. Four civilians had been injured recently by landmines in the area. In August the military cleared two mine fields in Cundinamarca department. From 1998 to mid-2000, the Ministry of Defense reported that the military had cleared 120 FARC minefields and 39 ELN minefields.

The Human Rights Ombudsman's office reported continued violence against women, especially in war zones. It noted that most female victims in zones of conflict chose not to report the abuses they had suffered, in part due to a lack of confidence in the efficacy of governmental institutions to address their problems. The Ombudsman noted that female leaders of political and peasant organizations in the Uraba-Antioquia region were increasingly the targets of persecution, threats, torture, and executions. According to the Ombudsman's 1999-2000 report, intrafamilial violence, sexual assault, and murder of women remained serious problems throughout the country (see Section 5). More than 30 percent of FARC members are female.

Contrary to previous years, there were no reports during the year that the Government militarized public hospitals in conflict areas, which increased the risk that

the hospitals would become targets of guerrilla attack. In March the Constitutional Court ruled that state security forces could not maintain installations (such as police stations) next to schools, so as to not endanger the lives of students in case of guerrilla attack. The Ministry of Defense later announced a proposal to relocate police stations outside of city centers; however, this had not been implemented by year's end. In contrast to the previous year, there were no reports that the State refused medical treatment to guerrillas.

The many paramilitary groups are diverse in their motivations, structure, leadership, and ideology. The 1997 establishment of the United Self-Defense Groups of Colombia as a national umbrella organization was designed both to provide a national structure and to develop a more coherent political culture for the country's local and regional paramilitary groups. The AUC paramilitary umbrella group comprises an estimated 8,000 combatants, who are members of 7 major organizations. The largest of these organizations is the ACCU, which is based in Cordoba department and the Uraba region of Antioquia department. The AUC also has as many as 4,000 of its own combatants. Carlos Castano heads both the AUC and the ACCU. Although illegal, some paramilitary groups reflected rural citizens' legitimate desire to defend themselves from the guerrilla threat. Other groups were actually the paid, private armies of drug traffickers or large landowners. Many members of paramilitary groups are former security force members or former guerrillas. Some local army and police commanders tacitly tolerated—and sometimes aided and abetted—the activities of paramilitary groups, despite the public pronouncements of the Government and the public security forces high command that they intended to combat paramilitary violence. Elements of political and economic elites in these areas also supported paramilitary groups. The President, other government officials, the UNHCHR, and various NGO's noted increased popular support for paramilitary groups during the year. AUC leader Carlos Castano admitted publicly that his group receives funding from both legitimate businesses and from narcotics trafficking, and that the group is financed by "dominant businesses" in the regions in which it operates.

Paramilitary groups used selective killings and systemic massacres to force displacements and punish civilians for perceived ties to the guerrillas (see Section 1.a.). Paramilitary groups also launched several offensive campaigns characterized by a series of massacres linked by time or location.

The Fifth Brigade reported that in March troops of its 13th and 56th Battalions captured 25 suspected AUC members at San Rafael de Lebrija, Santander department. During the operation, the troops captured a significant amount of war material. Also in March, elements of the army's 46th Battalion, based at Tibu, Norte de Santander department, captured another three suspected members of paramilitary groups and killed one. One soldier was killed in the action. In February the National Police and the DAS captured north coast paramilitary chief Adan Rojas Ospino in Barranquilla, Atlantico department. Rojas, a key aid to AUC paramilitary chief Carlos Castano, was sought in connection with a series of massacres dating back to the 1980's, as well as to the 1994 killing of a congressman. On February 24, the DAS also announced the capture of Arnolando Segundo Meza de la Rosa, the alleged chief of intelligence and finance operations for the paramilitary fronts operating in Sucre and Bolivar departments. Additionally, the DAS announced the capture in Monteria, Cordoba department, of an ACCU paramilitary leader.

Paramilitary groups on occasion used landmines and sometimes forced underage combatants into their ranks. Paramilitary forces failed to respect the injured and medical personnel. For example, in November members of a paramilitary group reportedly killed a patient on an ambulance driving from Tibu to Cucuta, Norte de Santander department, and declared the Tibu hospital a "military objective," causing several support staff to flee. In late October, presumed members of a paramilitary group kidnaped the same hospital's director, who later was found dead. In late September, paramilitary forces in the Uraba region dragged a wounded FARC member from a Red Cross ambulance and shot and killed her. In early October, the FARC stopped a Red Cross ambulance carrying a wounded paramilitary member and killed him. In response, on October 4, the ICRC suspended all assistance to wounded combatants. The ICRC resumed evacuation of wounded combatants in late December.

Guerrilla organizations continued to pursue strategies that routinely led them to commit abuses against citizens. Their tactics consistently included killings, kidnapping, torture, targeting of civilian populations and installations, including medical facilities, and the forced recruitment of children as young as 10 years old. In response to President Pastrana's August 1999 call to all armed groups to obey international humanitarian law (the rules of war), the FARC responded that it would not abide by, and was not bound by, international humanitarian law.



Two main guerrilla armies, the FARC and the ELN, as well as the much smaller EPL and other groups, commanded an estimated total of between 11,000 and 17,000 full-time guerrillas operating in more than 100 semiautonomous groups throughout the country. These groups undertook armed actions in nearly 1,000 of the 1,085 municipalities. Both the FARC and the ELN systematically attacked noncombatants and violated citizens' rights through the use of tactics such as killings, forced disappearances, the mutilation of bodies, attacks on churches, attacks on hospitals, attacks on ambulances, and executions of patients in hospitals. Guerrilla groups also were responsible for multiple abuses of religious and medical personnel with protected status and of the wounded. Indiscriminate attacks on police stations resulted in high numbers of civilian casualties. Guerrillas also killed religious leaders (see Section 2.c.) and indigenous people (see Section 5).

Guerrillas used landmines both to defend static positions (such as base camps, cocaine laboratories, and sites at which kidnap victims were held) and as indiscriminate weapons of terror. According to the Vice President's office, the FARC and ELN have laid indiscriminately 50,000 mines in rural areas. Landmines planted by guerrillas or disguised as everyday items such as soccer balls or paint cans often resulted in the killing or maiming of civilian noncombatants; thousands of displaced persons were unable to return to their homes due to the presence of antipersonnel mines. According to press reports, guerrilla bases in the despeje zone are surrounded by landmines. The FARC used sulfuric acid in the gas canisters that it employed as artillery, and continued its practice of using these canisters to attack small towns. Scores of soldiers, police, and civilians were burned indiscriminately as a result. For example, on August 19, two girls aged 13 and 14 years old, were killed when FARC guerrillas threw an explosive device into a hardware store in El Carmen de Bolívar, Bolívar department. In mid-December, a 9-year-old girl died buried in rubble when a gas canister destroyed her home in San Alfonso, Huila department, during a FARC attack. A 15-year-old female guerrilla also was killed in combat during the same attack.

Although the ELN agreed to halt recruitment of children under the terms of the June 1998 Mainz "Heaven's Gate" agreement, both it and the larger FARC regularly forced children into their ranks (see Section 5). Once recruited, child guerrillas are virtual prisoners of their commanders and subject to various forms of abuse. Sexual abuse of girls is a particular problem, and former child guerrillas have testified to this in the press. According to one press report, the Roman Catholic Church documented one case of a 13-year-old girl who was recruited by the guerrillas and used for sex before a nun persuaded them to release her. Child soldiers, including girls, were seen in guerrilla ranks in the despeje, and reports from various sources indicate that the guerrillas recruited at least 120 minors in the despeje. In addition, many families reportedly left the despeje (or have been displaced from other regions) to escape forcible recruitment of their children. According to press reports, in April FARC military commander Jorge Briceño Suárez ("Mono Jojoy") admitted that the FARC often had committed serious abuses against civilians and that the FARC made regular use of child combatants.

Guerrilla-paramilitary violence left a string of civilian casualties in the wake of ongoing targeted or massive killings by both sides. For example, in Barrancabermeja paramilitary and guerrilla elements killed 160 persons during the first 6 months of the year, the highest total in 5 years for this area. On December 11, the army's Human Rights Office posted on placards in Bogotá's central square the names of 3,289 civilians, of whom 11,596 persons were killed by paramilitary groups, and 693 persons by guerrillas. The names of more than 200 children were listed.

The FARC staged many attacks against municipalities outside of the despeje, possibly in a de facto effort to expand the demilitarized zone. According to the Ministry of Defense, between January and October, 74 guerrilla attacks on towns left 3,515 civilians dead. On July 12, the FARC attacked four towns in Huila and Tolima departments, destroying police stations, churches, schools, businesses, and homes. Four FARC groups attacked Alpujarra in southern Tolima department, and Colombia, Timana, and Vegalarga in Huila department. The attacks left 4 civilians dead and more than 15 persons wounded. The FARC attacked Vegalarga again 8 days later. As a result, more than 2,000 persons from Vegalarga, Colombia, Algeciras, and other towns fled to Neiva, capital of Huila department. On July 14, the FARC entered the town of Roncesvalles, Tolima department, and killed 13 policemen. According to press reports, the FARC attacked the mayor's office, various commercial buildings, a dozen homes, and the police station. After the police ran out of ammunition defending the station, they were killed upon surrendering.

Ending its unilaterally declared Christmas truce, on January 12, the FARC attacked four towns in Narino department. The attackers destroyed police stations, town halls, and a water plant. The FARC killed three policemen and one civilian

and kidnaped three other civilians. During the course of the attacks, FARC members also stole an ambulance and bombed the Trans-Andean oil pipeline near Ipiales, causing an oil spill. On January 15, approximately 500 guerrillas attacked four different points along the Bogota-Villavicencio highway. In confrontations among the army, the National Police, and the FARC, at least five civilians and five security force members were killed. The army reported that it killed 44 FARC combatants in action. Also on January 15, four National Police stations in southern Bogota were destroyed; one 11-year-old girl was killed by a grenade, and seven other civilians were reported wounded. The National Police suspected that the FARC was responsible for the attacks. According to press reports, in January the ELN kidnaped 15 persons southwest of Cartagena and then reportedly used 8 of its victims as human shields in confrontations with the police and the marines. One 19-year-old woman was killed in the crossfire.

During a January attack on the town of El Castillo, Meta department, indiscriminate FARC use of homemade artillery resulted in the destruction of the town church, hospital, school, town hall, and at least 20 homes. Eight FARC guerrillas, all estimated to be between the ages of 13 and 15, were killed during the attack. Nine civilians were killed, and four civilians were wounded.

On February 4, a car bomb in Puerto Asis, Putumayo department, killed 2 persons and wounded 10 other persons. On March 3, the FARC detonated a car bomb in the town square at Cachipay, Cundinamarca department; 3 civilians were killed and 19 were wounded. On March 30, the FARC detonated another bomb in front of the mayor's office in Cachipay, which killed 3 persons and wounded 20 others. On March 26, the FARC detonated another car bomb in the town square at Girardot, Cundinamarca department, killing 1 policeman and wounding 10 civilians. Many believed that the Girardot bombing was a FARC admonishment to local merchants who were late in making extortion payments. Other FARC car bombings in Cundinamarca department at Soacha (a southern neighborhood of Bogota) on February 24 and at Anapoima on January 16 caused property damage but did not result in any deaths.

During a March FARC artillery attack on the Medellin base of the army's Fourth Brigade, 2 civilians were killed and 18 injured when the FARC's gas cylinder-bombs exploded prematurely in a civilian neighborhood. A total of 45 homes and 2 civilian buildings were destroyed.

On July 29, approximately 400 members of the FARC guerrilla group attacked the town of Arboleda, Caldas department, killing 12 policemen and 4 civilians. The attack lasted for 2 days. Guerrillas detonated explosives in front of town buildings, including the police station and a church. Most of the village was damaged or destroyed.

On August 2, the FARC 14th front killed five hostages with shots to the head and left a sixth person for dead. The survivor, a farmer named Fernando Jimenez Hurtado, had been kidnaped in June in Caqueta department, south of the FARC demilitarized zone, and had been chained for 2 months to another hostage. He was forced to drag the victim's body almost 1 kilometer to the nearest police station. Jimenez Hurtado reported being held with 50 other kidnaped persons under poor conditions.

Antioquia police reported that, on November 18, the FARC killed 6 farmers who were former EPL guerrillas, burned 20 houses, and displaced 30 persons in a rural area of Frontino, west of Medellin. Unconfirmed reports indicated that another five persons may have disappeared.

From late September to early December, the FARC banned all road traffic in the southern department of Putumayo, following an offensive by paramilitary forces in the area of La Hormuga. The guerrillas' ban on road traffic, which was criticized by NGO's and local officials, led to severe shortages in food and medicine despite government efforts to fly in supplies and to secure key roads. The FARC also reportedly restricted the movement of ambulances.

According to the Federation of Colombian Municipalities, paramilitary and guerrilla attacks damaged or destroyed the installations of 64 municipal governments during the year, and paramilitary groups and guerrillas kidnaped 20 mayors and 18 mayoral candidates (see Sections 1.b. and 3).

The FARC committed numerous abuses against civilians in the despeje zone. The FARC was responsible for killings, alleged cases of forced disappearance, rape, arbitrary detention, infringement of the rights to free speech, freedom of religion (see Section 2.c.), and fair trial (see Section 1.e.), forced political indoctrination, and the forced recruitment of hundreds of children. According to press reports, the FARC has stated publicly that all persons between the ages of 13 and 60 in the despeje zone are liable for military service with the guerrillas; families fleeing the zone re-

ported that they were asked to surrender children to the FARC as of their 14th birthday.

Guerrillas, usually the ELN, destroyed 434 electrical pylons in the period from January 1999 to September 2000, causing massive damage to the country's power industry and increases in electricity rates for consumers. Guerrilla attacks on oil pipelines caused considerable environmental damage.

According to press reports in September, the ELN had held an internal trial of participants in the 1998 Machuca fireball incident in which over 80 persons were killed and 17 were injured as a result of an ELN pipeline bombing. According to the reports, the ELN claimed to have expelled guerrillas from its ranks for involvement in the crime.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of the press; and the Government generally respected this right in practice; however, journalists regularly practiced selfcensorship to avoid retaliation and harassment by various groups. The privately owned print media published a wide spectrum of political viewpoints and often voiced harsh antigovernment opinions without fear of reprisals. A ban on the publication of evidence pertaining to criminal investigations, based on the secrecy provisions of the Penal Code and an anticorruption statute, remained in effect. Journalists typically work in an atmosphere of threats and intimidation, primarily from paramilitary groups and guerrillas, which appeared to worsen during the year. Fearing for their safety, journalists often refrain from publishing or broadcasting stories counter to the interest of paramilitary groups, guerrillas, or narcotics traffickers.

In October 1999, the Organization of American States (OAS) Special Rapporteur for Freedom of Expression stated that the "press freedom situation in Colombia is a serious source of concern" and that, in addition to the killings of journalists, "Colombian journalists endure constant threats and intimidation."

The human rights unit of the Prosecutor General's office reported in November that it had 32 open cases involving murders, kidnappings, and threats against journalists. Twelve journalists were killed during the year, although not all of the killings could be attributed directly to the journalists' work.

On September 9, members of a paramilitary group murdered Carlos Jose Restrepo Rocha, the publisher of TanGente newspaper in Tolima, a municipal council candidate, and a former member of the now-inactive M-19 terrorist group. Ten men who identified themselves as members of a paramilitary group seized Restrepo during a community meeting in San Luis de Ibague, Tolima department, and Restrepo was found dead hours later, with paramilitary pamphlets placed on his body.

On November 15, unidentified assailants shot and killed local radio reporter Gustavo Rafael Ruiz Cantillo in the Pivijay municipality marketplace, Magdalena department. Many observers believe that he was killed by paramilitary forces, who reportedly have a strong presence in Pivijay; however, the FARC also are known to operate in the region. An investigation continued at year's end.

On November 30, unidentified assailants killed reporter Guillermo Leon Agudelo in his home in Florencia, Caqueta department. On December 13, two persons on a motorcycle shot and killed Alfredo Abad Lopez, director of the Voice of the Jungle radio station, a Caracol affiliate, as he left his home in Florencia, Caqueta department. The authorities formed a special investigative unit to establish whether the two murders are connected, and the Florencia mayor's office offered a \$10,000 reward for information leading to arrests in these cases.

In May 1999, the Prosecutor General's office created a new subdivision to handle investigations of crimes that targeted journalists. On May 3, investigations also produced arrest warrants against AUC leader Carlos Castano and three other persons who allegedly killed journalists Alberto Sanchez and Luis Alberto Rincon.

In July the Prosecutor General's Human Rights Unit indicted Rodolfo Nelson Rosado Hernandez (alias "El Pichi") and Jorge Eliecer Espinal Velasquez ("El Parce") in the September 1999 murder of newspaper editor Guzman Quintero Torres in Valledupar, Cesar department. The two have been in police custody since September 1999 and are thought to be members of a group of killers working for area paramilitary forces. Quintero's editorials had criticized state forces in the area, and he reportedly had been threatened before his death.

There was also progress in the investigation of murdered journalist Jaime Garzon (see Section 1.a.).

Guerrillas, primarily the ELN, were responsible for the kidnapping of 15 journalists during the year. Guerrillas abducted many of them to bear witness to crimes committed by paramilitary forces or to deliver messages to local authorities. Eleven journalists reported death threats during the year.

In January the FARC kidnaped journalist Guillermo "la Chiva" Cortes; in August security forces rescued him, along with six other hostages.

On May 25, Jineth Bedoya Lima, a reporter for the *El Espectador* newspaper, was kidnaped and raped over a period of 10 hours while on her way to interview a convicted paramilitary leader at the Modelo prison in Bogota. Two days prior to her kidnaping, *El Espectador* received threatening letters against her and other journalists. Carlos Castano, leader of the AUC paramilitary organization, denied that the AUC was involved in the kidnaping.

On December 16, the ELN reportedly kidnaped Caracol television journalist Winston Viracacha in Tumaco, Narino department. Viracacha had traveled with his cameraman and an assistant to meet members of the ELN's "Comuneros del Sur" front, who retained Viracacha but released his companions.

Thirteen journalists left the country during the year. In March Francisco "Pancho" Santos, editor of the family-run *El Tiempo*, the country's largest newspaper, and founder of the Pais Libre antikidnaping organization and the national "No More" antiviolence civic campaign, fled the country after announcing that he was the target of a FARC guerrilla group plot to kill him. Santos remained in exile at year's end. Also in March, television personality Fernando Gonzalez Pacheco fled the country after receiving threats from the FARC. In June Ignacio Gomez Gomez, a journalist for *El Espectador*, fled the country after receiving threats against his life.

The InterAmerican Press Society opened a rapid action unit office in Bogota to help the Prosecutor General's office investigate crimes against journalists. On August 18, President Pastrana issued a decree establishing a program for the protection of journalists. In October the Minister of Interior announced the inauguration of the program, which is to provide armor for cars, escorts, and transportation. The Government consulted with journalism organizations to identify journalists at special risk but has not had the resources to provide protection. The Ministry of the Interior supported an alerts network organized for journalists by providing a small number of radios and an emergency telephone hot line.

On December 20, a specialized court judge in Neiva, Huila department, absolved contractor Fernando Bermudez Ardila and two other defendants accused of the April 1998 murder of journalist Nelson Carvajal Carvajal; the judge cited weak evidence in the case. Bermudez had been accused of hiring the two other men to kill Carvajal, because Carvajal would not agree to stop negative reporting about a development project built by Bermudez's firm. Prosecutors appealed the decision, and the Supreme Court is expected to rule on the case.

Media ownership remains highly concentrated. Wealthy families or groups associated with one of the two dominant political parties have consolidated their holdings of news media, and regional firms continued to purchase local news media outlets. As a result of the general economic downturn, large press conglomerates closed radio stations and newspaper offices in certain provinces and reduced staff. Although the press remained generally free, economic problems and the concentration of media ownership limited the media's resources, causing the media to rely heavily on a smaller pool of advertisers, including the Government, which the media often chose not to criticize.

The National Television Commission continued to oversee television programming throughout the year.

The FARC restricted the movement of journalists in the despeje through blockades and random identity checks and on at least three occasions stopped *El Tiempo* trucks and burned all of the newspapers that they carried.

The Government generally respected academic freedom, and there was a wide spectrum of political activity throughout the country's universities. However, paramilitary groups and guerrillas maintain a presence on many university campuses, aimed at generating political support for their respective campaigns. They use both violent and nonviolent means towards political ends. Both paramilitary groups and guerrillas also regularly targeted public school teachers at the elementary and secondary levels for politically motivated killings.

In August the National University was closed, and its premises were searched after a policeman was killed during a protest. Students held a referendum against violent groups operating on the university campus.

In April schools in Chalan and Ovejas, in Sucre department, were suspended due to death threats against 50 teachers. More than 3,000 students were affected. Threats also were made against teachers in Coloso, Morroa, Toluviejo, San Onofre, Los Palmitos, and San Antonio de Palmito in Sucre department. All of the major guerrilla organizations and the paramilitary groups maintain a presence in the region.

On October 5, Universidad del Atlantico professors Luis Meza Almanza Alfredo Martin Castro Hayder were killed in Barranquilla on October 5 and August 26, respectively. Both were known for leftist views and had been under consideration for rector positions at the University. Castro was reportedly on a death threat list.

Guerrillas were suspected of the April massacre of 2 evangelical preachers and 12 church members at Hato Nuevo, Carmen de Bolívar, Bolívar department.

On March 27, unidentified perpetrators killed Roman Catholic priest Hugo Duque Hernandez at Supia, Caldas department.

There were no new developments in the November 1999 killings of Roman Catholic priest Jorge Luis Maza and Spanish aid worker Inigu Egiluz in Chocó department; security forces had arrested nine members of a paramilitary group in conjunction with the crime.

The human rights unit of the Prosecutor General's Office reported in November that it had 34 open cases of killings of members of evangelical groups.

The Bishops' Conference of the Roman Catholic Church reported that paramilitary forces, the ELN, and the FARC sometimes threatened rural priests with death for speaking out against them. It also reported that Roman Catholic churches in Huila, Tolima, Cauca, and Antioquia departments were destroyed during guerrilla attacks on towns and police stations.

On April 11, at least three Mormon temples in Cali were bombed. No one was injured in the attacks, which damaged buildings. No one claimed responsibility for the attacks.

Jewish community leaders estimated that as many as 20 percent of the country's Jewish community had fled the country as of July 1999. Among the principal causes was a string of kidnappings, assaults, and murders affecting Jewish business leaders.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides citizens with the right to travel domestically and abroad, and the Government generally respects this right in practice, with some exceptions. Outsiders who wish to enter Indian tribes' reserves must be invited. In areas where counterinsurgency operations were underway, police or military officials occasionally required civilians to obtain safe-conduct passes; paramilitary forces and guerrillas often used similar means to restrict travel in areas under their control. At times the Government implemented curfews. Military counterinsurgency operations, forced conscription by paramilitary and guerrilla organizations, and guerrilla incursions often forced peasants to flee their homes and farms, and there was a very large population of internally displaced persons. According to CODHES, approximately 317,000 displacements of persons occurred during the year; the vast majority of displaced persons are peasants who have been displaced to cities (see Section 1.g.).

Throughout the year, frequent road blockades erected by paramilitary groups, the FARC, ELN, and peasant farmers inhibited transportation, communication, and commerce throughout the country. Social organizations also resorted to road blockages, some of them prolonged, to protest government actions or policies. Almost every major artery in the country was closed at some point during the year. From late September to early December, the FARC banned all road traffic in the southern state of Putumayo, following an offensive by paramilitary forces in the area of La Hormiga (see Section 1.g.).

Press reports indicate that more than 300,000 citizens emigrated during the last 2 years, due principally to the deteriorating security situation and economic recession.

The Constitution provides for the right to asylum, under terms established by law in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The country has had a tradition of providing asylum since the 1920's. At year's end, 239 refugees had legal asylum status, and 12 applications for asylum were pending.

The Government cooperates with the offices of the UNHCR and other humanitarian organizations in assisting refugees and internally displaced persons. The Government reserves the right to determine eligibility for asylum, based upon its own assessment of the nature of the applicant's suffering. The issue of the provision of first asylum did not arise during the year. There were no reports of the forced return of persons to a country where they feared persecution.

### *Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The Constitution provides for the right of citizens to change their government, and citizens exercise this right in regularly scheduled elections by secret ballot. In 1998 voters elected Conservative Party candidate Andres Pastrana President in elections that were free, fair, and transparent, despite some threats to the electoral process by paramilitary groups, narcotics traffickers, and guerrillas. The Liberal Party controls the legislature.

Presidential elections are held every 4 years, with the incumbent barred for life from reelection. The Liberal and Conservative parties long have dominated the for-

mal political process with one or the other winning the presidency. Public employees are not permitted to participate in partisan campaigns. Officially, all political parties operate freely without government interference. Those that fail to garner 50,000 votes in a general election lose the right to present candidates and may not receive funds from the Government. However, they may reincorporate at any time by presenting 50,000 signatures to the National Electoral Board. Voting is voluntary and universal for citizens age 18 and older, except for active-duty members of the police and armed forces, who may not vote.

Prior to local elections in October, both paramilitary and guerrilla organizations sought to dissuade some potential candidates from running for office or restrict their ability to campaign. The Colombian Federation of Municipalities reported to the press that armed groups threatened candidates in more than half of the country's 1,085 municipalities. By year's end, the Federation reported that 19 mayoral candidates were killed, 20 were kidnaped, 12 reported threats, and as many as 53 candidates for mayoral and municipal council posts withdrew their candidacies. For example, on September 23, guerrillas kidnaped the mayor of Samaniego, a Liberal Party candidate for that office, and six other mayoral candidates from this southern town in Narino. On September 9, members of a paramilitary group forced Carlos Restrepo, a leftist activist and publisher who was planning to run for a local office, from a community meeting; his body later was found outside San Luis. However, the October 29 elections were generally peaceful.

In April the FARC announced the formation of a political party—the Bolivarian Movement for a New Colombia—before a gathering of thousands of persons. FARC leader Manuel Marulanda announced that the party would operate secretly.

There are no legal restrictions, and few practical ones, on the participation of women or minorities in the political process; however, both are underrepresented in official and party positions. In March a quota law to increase the number of women in high-level public positions went into effect. The quota law requires that a minimum goal of 30 percent of nominated positions, including seats on the high courts and ministerial positions, be allotted to women. The quota law does not apply to publicly elected positions, such as seats in Congress. Before the end of each year, the Government must report to Congress the percentage of women in high-level governmental positions. Voters elected 14 women to the 102-seat Senate and 19 women to the 161-seat House of Representatives in March 1998. At year's end, there were 4 women in the 16-member cabinet—they serve as the Ministers of Health, Culture, Communications, and Foreign Trade. There were no women among the 23 Supreme Court justices, 1 woman among 9 Constitutional Court magistrates, and 3 women out of 13 magistrates of the Superior Judicial Council.

Indigenous people are underrepresented in government and politics. Two Senate seats are reserved for indigenous representatives. In October voters in Cauca elected Floro Tunubala, the country's first indigenous governor. Blacks also are underrepresented in government and politics. In 1996 the Constitutional Court declared unconstitutional a 1993 law that set aside two house seats for citizens of African heritage, although the ruling nonetheless allowed the incumbents to complete their terms in office. There is one black senator, but there are no black members of the Chamber of Representatives.

#### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A large and varied nongovernmental human rights community is active, and provides a wide range of views. Among the many groups are: The Colombian Catholic Bishops Conference; the Colombian Commission of Jurists; the Intercongregational Commission for Justice and Peace; the Permanent Committee for the Defense of Human Rights; the Center for Investigations and Popular Research; the Advisory Committee for Human Rights and Displacements; the Latin American Institute for Alternative Legal Services; the Committee in Solidarity with Political Prisoners (dedicated to defending accused guerrillas); the Association of Families of Detained and Disappeared Persons; the Reinsertion Foundation (focused on demobilized guerrillas); the Pais Libre Foundation (focused on the rights of kidnap victims); and the Vida Foundation (focused on the rights of victims of guerrilla violence). Other international humanitarian and human rights organizations in the country that were active include the ICRC (with 16 offices across the country) and Peace Brigades International.

Although the Government generally did not interfere directly with the work of human rights NGO's, many prominent human rights monitors worked under constant fear for their physical safety. There were unconfirmed reports that security forces harassed or threatened human rights groups. In August the Prosecutor General's office opened an investigation against retired Brigadier Generals Millan and





On November 22, a Bogota judge convicted two members of a paramilitary group for the 1997 murders of two CINEP workers and one other person. Arrest warrants remained outstanding for Carlos Castano and four other members of paramilitary groups (see Section 1.a.).

Suspected paramilitary leader Libardo Humberto Prada was linked by NGO's to the August 15 murder of peace activist and former mayor Luis Fernando Rincon Lopez in Aguachica, Cesar department. The case remained under investigation at year's end. In April 1999, the human rights unit of the Prosecutor General's office formally indicted Prada and paramilitary Cielo Lobo Ascano in the August 1998 killing in Valledupar of local Redepaz coordinator Amparo Leonor Jimenez.

In February a lower civilian court convicted four Colombian human rights activists arrested by the army in 1997 for allegedly funneling international human rights assistance intended for displaced persons to the ELN guerrilla movement. The court sentenced them each to 5 years' imprisonment.

The Ministry of Defense reported that in the past 5 years, 97,894 security force members received human rights training during the year, including 1,994 human rights trainers. Such training is provided by the ICRC, the Colombian Red Cross, the Roman Catholic Church, elements of the Government and security forces, and foreign governments. Many observers credited these programs with having done much to foster a climate of increased respect for human rights and international humanitarian law within the military forces in recent years.

The Government has an extensive human rights apparatus, which includes the office of the President's Adviser for Human Rights, headed by Vice President Gustavo Bell. Human rights expert Reinaldo Botero was named Director of the presidential program for human rights and international humanitarian law in September. The executive branch's efforts on human rights are supported by the Ministry of Interior, the human rights office of the Ministry of Defense, and dependent offices for each of the public security forces. The office of the national Human Rights Ombudsman, its regional representatives and corps of public defenders, the Attorney General's office and its delegate for human rights and regional representatives, and the Prosecutor General's office and its human rights unit are all independent institutions, not subject to executive branch direction.

The House of Representatives elects the Public Ministry's National Ombudsman for Human Rights for a 4-year term, which does not coincide with that of the President. The office has the constitutional duty to ensure the promotion and exercise of human rights. The Ombudsman provides public defense attorneys and a channel for complaints of human rights violations (see Section 1.e.). However, the Ombudsman lacks sufficient funding and staff. In August the House of Representatives named former Constitutional Court Judge Eduardo Cifuentes Munoz as Human Rights Ombudsman.

The Human Rights Ombudsman's office processed 13,951 complaints in 1999 (the latest year for which figures were available); 8,562 cases (61 percent) were against government entities. Of the 7,272 cases concluded in 1999, the Ombudsman's office obtained favorable or partially favorable conclusions in 2,867, or forty percent. Another 1,436 were referred to the competent authority. The office also provided 40,656 free legal consultations through its corps of more than 1,000 public defenders, many of whom work only part-time.

Early in the year, the Government established a high-level commission to coordinate policy on human rights and international humanitarian law, which is headed by Vice President Gustavo Bell.

In August 1999, the Vice President enunciated the Government's human rights policy; however, some aspects of implementation have been slow to materialize. The Government's national human rights plan called for the respect, promotion, and assurance of human rights. It promised increased government attention to the consequences of human rights abuses and called on all armed factions to respect international humanitarian law. The plan asserted that security forces would combat both guerrilla and paramilitary forces. One of the plan's most important provisions permitted the armed forces commander to remove from service summarily any military member whose performance in combating paramilitary forces he deemed "unsatisfactory or insufficient." In September President Pastrana signed 12 decrees to reform and strengthen the military; one decree provides for the separation from service of all uniformed members of the military regardless of their time in service, at the discretion of the top military commanders (see Section 1.e.).

The U.N. High Commissioner for Human Rights and the UNHCR have offices in Bogota. In 1997 the UNHCHR opened a field office in Bogota to observe human rights practices and advise the Government; its mandate was extended through April 2002. The office is tasked with monitoring and analyzing the human rights situation throughout the country and with the provision of assistance to the Govern-

ment, civil society, and NGO's in the field of human rights protection. It submitted reports to the Government and to the U.N. In March the UNHCR report, which covered 1999, noted that "the continued existence of direct links between some members of the security forces and paramilitary groups, revealed by disciplinary and judicial investigations, is a cause of great concern." The report also noted that in 1999 "in some regions of the country, these links were strengthened and the authorities responsible for penalizing them failed to take decisive action." In April UNHCHR Mary Robinson noted "reports indicating that members of the military forces participate directly in organizing new paramilitary groups and in disseminating threats. The President, other government officials, the UNHCHR, and various NGO's noted increased popular support for paramilitary groups and a polarization of political opinion with concern.

*Section 5. Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status*

The Constitution specifically prohibits discrimination based on race, sex, religion, disability, language, or social status; however, in practice, many of these provisions are not enforced. The killing of homosexuals as part of the practice of social cleansing continued.

*Women.*—Rape and other acts of violence against women are pervasive in society, and like other crimes, seldom are prosecuted successfully. According to the Ombudsman's 1999–2000 report, intrafamilial violence, sexual assault, and murder of women were increasing problems. The governmental Institute for Family Welfare and the Presidential Adviser's Office for Youth, Women, and Family Affairs continued to report high-levels of spouse and partner abuse throughout the country. In 1999 the Institute for Forensic Medicine reported 62,123 cases of domestic violence, of which 41,528 were conjugal violence, 9,896 were child abuse, and 10,699 were cases of abuse by other family members. The ICBF conducted programs and provided refuge and counseling for victims of spousal abuse; however, the level and amount of these services were dwarfed by the magnitude of the problem. For example, ICBF's 530 family ombudsmen handle approximately 1,160 cases per year.

The Institute estimated that 95 percent of all abuse cases are never reported to the authorities and reported 13,703 cases of probable rape during the year.

The 1996 Law on Family Violence criminalizes violent acts committed within families, including spousal rape. The law also provides legal recourse for victims of family violence, immediate protection from physical or psychological abuse, and judicial authority to remove the abuser from the household. It allows a judge to oblige an abuser to seek therapy or reeducation. For acts of spousal sexual violence, the law mandates sentences of 6 months to 2 years and denies probation or bail to offenders who disobey restraining orders issued by the courts. A 1997 law also made additional, substantial modifications to the Penal Code and introduced sentences of between 4 and 40 years for crimes against sexual freedom or human dignity, including rape, sex with a minor, sexual abuse, induction into prostitution, and child pornography. The law also repealed an old law that fully exonerated a rapist if he subsequently offered to marry the victim and she accepted. However, there was little evidence that this legislation was enforced systematically. The reforms to the Penal Code approved in June reduced the maximum sentence for violent sexual assault from 20 to 15 years; the minimum sentence is 8 years. The National Institute for Forensic Medicine reported 19,859 cases of spousal abuse during the first half of 1999. The overwhelming majority of victims were women. First Lady Nohra Pullana de Pastrana is on the board of directors of the ICBF and works with the "Make Peace" program, which provides support to women and children who were victims of domestic violence.

Sexual harassment is a problem.

Women also faced an increased threat of torture and sexual assault due to the internal conflict (see Section 1.g.).

The forced disappearance law provides for a maximum penalty of 60 years for cases involving pregnant women (see Section 1.b.).

Trafficking in women is a problem (see Section 6.f.).

The Constitution prohibits any form of discrimination against women and specifically requires the authorities to ensure "adequate and effective participation by women at decisionmaking levels of public administration." Even prior to implementation of the 1991 Constitution, the law had provided women with extensive civil rights. However, despite these constitutional provisions, discrimination against women persists. A study by the University of Rosario released during the year concluded that women faced hiring discrimination and that women's salaries were generally incompatible with their education and experience. The salary gap between men and women widened in the last decade, reaching a high point in 1999 as the

country's economy declined. The study also noted that women were affected disproportionately by unemployment. Government unemployment statistics for the year indicated that the unemployment rate for men was 16.9 percent, while the rate for women was 24.5 percent. According to the March report of the U.N. High Commissioner for Human Rights, women earn 28 percent less than men. The National Statistics Institute reported that a higher percentage of women were employed in minimum wage jobs. According to U.N. statistics, women's earnings for formal sector, nonagricultural work correspond to approximately 85 percent of men's earnings for comparable work, and women must demonstrate higher qualifications than men when applying for jobs. Moreover, women constitute a disproportionately high percentage of the subsistence labor work force, especially in rural areas. Female rural workers are affected most by wage discrimination and unemployment.

Despite an explicit constitutional provision promising additional resources for single mothers and government efforts to provide them with training in parenting skills, women's groups reported that the social and economic problems of single mothers remained great. In September 1997, the Constitutional Court ruled that pregnant women and mothers of newborn children under 3 months of age could not be fired from their jobs without "just cause." The court ruled that bearing children was not just cause.

On October 25, the Constitutional Court struck down a law that had prohibited pregnant women who are divorced or separated from their partners from remarrying before giving birth. The law also had imposed a 270-day "waiting period" for women who wanted to remarry.

*Children.*—The Constitution formally provides for free public education, which is compulsory between the ages of 6 and 15. An estimated 25 percent of children in this age group do not attend school, due to lax enforcement of truancy laws, inadequate classroom space, and economic pressures to provide income for the family. The Government provides for the cost of primary education, but many families face additional expenses related to education, such as matriculation fees, books, school items and transportation costs (which are significant in rural areas where children may live far from school). These costs can be prohibitive, especially for the rural poor.

Despite significant constitutional and legislative commitments for the protection of children's rights, these were implemented only to a minimal degree. The Constitution imposes the obligation on family, society, and the State to assist and protect children, to foster their development, and to assure the full exercise of these rights. The Children's Code sets forth many of these rights and establishes services and programs designed to enforce the protection of minors. Children's advocates reported the need to educate citizens with regard to the code as well as the 1996 and 1997 laws on family violence, which had been drafted particularly to increase legal protection for women and children.

Abuse of children is a problem. The National Institute for Forensic Medicine reported 9,896 cases of child abuse during the year; there were 9,713 reported cases in 1999. According to the March report of the U.N. Commission on Human Rights, sexual abuse is prevalent, particularly of children between the ages of 5 and 14 years of age. In 70 to 80 percent of cases, children know their abusers.

An estimated 25,000 boys and girls under age 18 work in the sex trade. In 1996 legislators passed a law prohibiting sex with minors or the employment of minors for prostitution, and they amended that law in 1997 to provide that conviction for nonviolent sexual abuse of a child under age 14 carries a prison sentence of 4 to 10 years. Conviction for rape of anyone under the age of 12 carries a mandatory sentence of 20 to 40 years in prison. Enforcement of such laws is lax. The ICBF oversees all government child protection and welfare programs and funds non-governmental and church programs for children.

Trafficking in girls is a problem (see Section 6.f.).

Child labor is a significant problem (see Section 6.d.).

In conflict zones, children often were caught in the crossfire between the public security forces, paramilitary groups, and guerrilla organizations. For example, on August 15, six children were killed and several others injured by members of the army's Fourth Brigade who mistook the children for a guerrilla unit (see Section 1.g.). Ministry of Defense figures indicated that approximately 200 children were killed due to the conflict during the year. At mid-year, UNICEF reported that 460 children had been killed over the past 4 years by various armed groups and that 789 had been kidnaped. Children suffered disproportionately from the internal conflict, often forfeiting opportunities to study as they were displaced by conflict and suffered psychological traumas. According to UNICEF, over 1 million children have been displaced from their homes over the past decade. The Human Rights Ombudsman's office estimated that only 15 percent of displaced children attend school. In

July 1999, the Government announced that no one under the age of 18 could enter military service, even with the consent of a parent; previously, individuals over 16 years of age but below age 18 could volunteer to join the military with parental permission but were barred from serving in combat.

Paramilitary groups sometimes impressed children into their ranks, and the use of child soldiers by guerrillas was common. According to press reports, in August members of the FARC killed a school rector in Meta department for criticizing the recruitment of his students. The Government estimates that approximately 6,000 children are engaged as combatants by both paramilitary groups and guerrillas. In May 1999, the FARC promised visiting Special Representative of the U.N. Secretary General on Children in Armed Conflict Olara Otunnu that it would stop forcing children into its ranks; however, it continued the practice. The Roman Catholic Church reported that the FARC lured or forced hundreds of children from the despeje zone into its ranks. It engaged in similar practices in other areas under its control. For example, according to press reports, in June the FARC recruited at least 37 youths, including minors, in the municipality of Puerto Rico in southern Meta department. According to one NGO, in Putumayo the FARC instigated compulsory service of males between the ages of 13 and 15 and was recruiting in high schools. Once recruited, child guerrillas are virtual prisoners of their commanders and subject to various forms of abuse. Sexual abuse of girls is a particular problem. Although the ELN agreed to halt recruitment of children under the terms of the June 1998 Mainz "Heaven's Gate" agreement, it also regularly impressed children into its ranks. Some 57 child guerrillas were captured or deserted during the year, and 27 children were killed during FARC-military clashes.

According to press reports, families from the demilitarized zone, as well as from Arauca, Valle del Cauca, and Antioquia departments have fled their homes because guerrilla groups have tried to recruit their children forcibly. On May 4, a woman from Norte de Santander department, with the help of the Colombian military, delivered her 12-year-old son to the ICBF to protect him from the FARC, which was trying to recruit him forcibly.

Children were also among the preferred kidnaping targets of guerrillas (see Section 1.b.). Pais Libre reports that the number of children kidnaped annually has increased in recent years, from 131 in 1998 to 206 in 1999, and as of November 12, 265 children had been kidnaped in 2000. According to one press report, more than 200 children were kidnaped during the year. For example, the FARC kidnaped 9-year-old Clara Oliva Pantoja on March 22 and 3-year-old Andres Felipe Navas on April 7 and held both in the despeje zone. Clara Olivia Pantoja was released in December (see Section 1.b.). In April three armed men kidnaped 9-year-old Dagberto Ospina Ospina from his school bus in southern Cali. No group has been identified or claimed responsibility.

*People with Disabilities.*—The Constitution enumerates the fundamental social, economic, and cultural rights of the physically disabled; however, serious practical impediments exist that prevent the full participation of disabled persons in society. There is no legislation that specifically mandates access for the disabled. According to the Constitutional Court, physically disabled individuals must have access to, or if they so request, receive assistance at, voting stations. The Court also has ruled that the social security fund for public employees cannot refuse to provide services for the disabled children of its members, regardless of the cost involved.

*Indigenous People.*—There are approximately 80 distinct ethnic groups among the country's more than 800,000 indigenous inhabitants. These groups are concentrated in the Andes mountains, Pacific Coast lowlands, the Guajira peninsula, and Amazonas department. According to the National Organization of Colombia's Indigenous (ONIC), 93 percent of indigenous people live in rural areas; 25 percent are on reservations, and approximately 115,000 indigenous people are without land.

The Constitution gives special recognition to the fundamental rights of indigenous people. The Ministry of Interior, through the office of indigenous affairs, is responsible for protecting the territorial, cultural, and self-determination rights of Indians. Ministry representatives are located in all regions of the country with indigenous populations and work with other governmental human rights organizations, as well as with NGO human rights groups and civil rights organizations, to promote Indian interests and investigate violations of indigenous rights. Nonetheless, members of indigenous groups suffer discrimination in the sense that they traditionally have been relegated to the margins of society. Few opportunities exist for those who might wish to participate more fully in modern life. The March report of the U.N. Commission on Human Rights noted that an estimated 80 percent of the indigenous population live in conditions of extreme poverty, that 74 percent receive wages below the legal minimum, and that their municipalities have the highest rates of poverty. In addition, indigenous communities suffer disproportionately from the in-

ternal armed conflict (see Section 1.g.). Members of indigenous communities often flee together in mass displacements, relocating to another indigenous community.

According to the National Agrarian Reform Institute (INCORA), 68,245 indigenous families live on designated Indian reserves. Indigenous groups' rights to their ancestral lands are by law permanent. INCORA reports that approximately 80 percent of these lands have been demarcated. However, armed groups often violently contested indigenous land ownership. According to ONIC, roughly 95 percent of the country's resources are found on indigenous reservations and claimed territories. Traditional Indian authority boards operate some 519 reserves; the boards handle national or local funds and are subject to fiscal oversight by the national Comptroller General. These boards administer their territories as municipal entities, with officials elected or otherwise chosen according to Indian tradition.

Indigenous communities are free to educate their children in traditional dialects and in the observance of cultural and religious customs. Indigenous men are not subject to the national military draft.

INCORA estimated that some 200 indigenous communities had no legal title to land that they claimed as their own. INCORA reported that at mid-year some 488 requests by indigenous communities to establish new reserves remained outstanding. According to INCORA, more than 75 million acres have been recognized legally as Indian lands. It is buying back much of this land, which has been settled by mestizo peasants, and returning it to indigenous groups.

The Constitution provides for a special criminal and civil jurisdiction within Indian territories based upon traditional community laws. However, some observers asserted that these special jurisdictions were subject to manipulation, and that punishments rendered by such community courts were often much more lenient than those imposed by regular civilian courts.

Members of indigenous communities continued to be victims of all sides in the internal conflict, and a number of them were killed. The national Human Rights Ombudsman stated in its 1999–2000 annual report that among the indigenous communities most affected by extrajudicial killings, threats, and regional combat were the Corebaju in Cauqueta, the Puinave in Guaviare, the Embera-Katio of Alto Sinu, the Embera-dobida of Choco, the Paez in Cauca, the Emaer-katio in Antioquia, the Guayabero on the Guaviare-Meta border, the Tule in Choco, and the U'wa in Boyaca and Casanare. The Human Rights Ombudsman's office reported 33 killings in indigenous communities in 1999; 22 of these victims were community leaders.

According to press reports, in June members of a paramilitary organization killed Joselito Bailarin, EmberaKatio governor of the community of Canaverales in Murri de Frontino in Antioquia department. On December 25, Embera leader Armando Achito reportedly was killed by paramilitary forces in Jurado municipality, Choco department.

There were no new developments in the 1996 murder of Indians Dagoberto Santero Bacilio, Carlos Arturo Solano Bernal, and Sergio (Manue) in San Antonio de Palmito in Sucre department, allegedly by paramilitary groups.

According to press reports, in early May, the FARC announced that it would execute seven Embera-Katio indigenous leaders in the town square at Frontino in Murri, Antioquia department, as retribution for the May 26 deaths of two indigenous brothers at the hands of paramilitary forces. The FARC believed that the indigenous leaders had laid a trap for the brothers by identifying them as guerrilla collaborators. The FARC stated that the indigenous leaders took too long (8 days) to report the crime. The Indigenous Organization of Antioquia (OIA) attributed the delay to difficulties in communicating from a rural zone to Medellin. The OIA called for a humanitarian commission to protect the leaders; however, on May 24, the FARC killed one of the leaders, a 30-year-old teacher named Hernando de Jesus Bailarin.

Paramilitary and guerrilla groups have been known to force indigenous people, including children, into their ranks. Some guerrilla groups reportedly favored indigenous people as guides and communicators, due to their knowledge of the geography of their historical lands and knowledge of generally unfamiliar languages.

On May 10, approximately 3,000 Kankuama tribe members from the Sierra Nevada de Santa Marta region in Magdalena department were pressured to leave their community by the AUC paramilitary organization. The AUC was fighting the FARC, ELN, and EPL guerrilla organizations in the region. On March 2, indigenous leader Jairo Bedoya Hoyos disappeared. The OIA held the AUC responsible. In an open letter, the AUC stated that it did not have Bedoya in its custody.

U'wa protests against initial drilling by Occidental Petroleum in an area near but not on their reserve continued. The U'wa filed several court challenges to drilling, and succeeded in winning brief delays before appeal courts ruled in favor of the Government's arrangement with Occidental. U'wa repeatedly sought to block road ac-

cess to the drilling site; in one instance in February, police sought to remove an U'wa road block by using tear gas to disperse the crowd; in an ensuing panic the U'wa claimed that four children were killed (see Sections 1.a. and 2.b.). Press reports indicated that only one body was recovered. Indigenous Senator Jesus Pinacue announced a hunger strike to pressure Occidental Petroleum to leave U'wa land. Indigenous Senator Francisco Rojas Birri and Representatives Leonardo Caicedo and Jhonny Aparicio supported the hunger strike. A 1997 OAS joint study with a university recommended the immediate and unconditional suspension of oil exploration or exploitation activities; clarification of the status of U'wa territories and protected reserves; and the development of a formal process of consultation under the auspices of the Government. The U'wa also had threatened to commit collective suicide if their wishes were not respected. In August 1999, the Government increased the U'wa reserve, from 100,000 acres to 1.25 million acres. The area has estimated oil reserves of up to 1 billion barrels. In August a technical working group including the Ministries of Interior and Environment, as well as an advisor to the U'wa, reported that the Government and Occidental Petroleum are complying with all applicable regulations. The U'wa broke off talks in September, in response to a ruling by the Government's agrarian reform agency authorizing the state oil company to purchase lands to create a buffer zone around the drilling area. Talks remained suspended at the end of the year.

Beginning in early January, 167 indigenous members of the EmberaKatio tribe occupied the grounds of the Ministry of the Environment in Bogota for 4 months to protest the flooding of their lands by the Urrea hydroelectric project. In 1998 the Constitutional Court ruled that the human rights of the Embera had been violated by Urrea because it had not consulted the Embera on the project.

*Religious Minorities.*—There is little religious discrimination. The Roman Catholic Church and some evangelical churches reported that some indigenous leaders were intolerant of nontraditional forms of worship.

Three Mormon temples were bombed in April, and members of the Jewish community were victims of abuse (see Section 2.c.).

*National/Racial/Ethnic Minorities.*—According to the Ministry of the Interior, citizens of African heritage live primarily in the Pacific departments of Choco (370,000), Valle del Cauca (1,720,257), Cauca (462,638), and Narino (261,180), as well as along the Caribbean coast. Although estimates vary widely, blacks represent approximately 10 percent of the total population.

Blacks are entitled to all constitutional rights and protections; however, they traditionally have suffered from discrimination. Blacks are underrepresented in the executive branch, judicial branch, and civil service positions, and in military hierarchies. Despite the passage of the African-Colombian law in 1993, little concrete progress was made in expanding public services and private investment in Choco department or other predominantly black regions. The same law also authorized black communities to receive collective titles to some Pacific coast lands. However, black leaders complained that the Government was slow to issue titles, and that their access to such lands often was inhibited by the presence of armed groups or individuals. Unemployment among African-Colombians ran as high as 76 percent in some communities. The March report of the U.N. Commission on Human Rights noted that an estimated 80 percent of African-Colombians live in conditions of extreme poverty, that 74 percent receive wages below the legal minimum, and that their municipalities have the highest rates of poverty. Choco remains the department with the lowest per capita level of social investment and is last in terms of education, health, and infrastructure. It also has been the scene of some of the country's most enduring political violence, as paramilitary forces and guerrillas struggled for control of the Uraba region.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution recognizes the rights of workers to organize unions and to strike, except for members of the armed forces, police, and those "essential public services" as defined by law. However, legislation that prohibits all public employees from striking is still in effect, although it often is overlooked. In practice violence towards trade unionists and antiunion discrimination are obstacles to joining and engaging in trade union activities. Labor leaders throughout the country continued to be targets of attacks by paramilitary groups, guerrillas, narcotics traffickers, and their own union rivals. Union leaders contend that perpetrators of violence against workers, particularly members of paramilitary groups, operate with virtual impunity.

The 1948 Labor Code (which has been amended repeatedly) provides for automatic recognition of unions that obtain at least 25 signatures from potential members and comply with a simple registration process at the Labor Ministry; however,

the International Labor Organization (ILO) has received reports that this process was slow and sometimes took years. The law penalizes interference with freedom of association. It allows unions to determine internal rules freely, elect officials and manage activities, and forbids the dissolution of trade unions by administrative fiat. In 1999 President Pastrana approved Law 584, which limits government interference in a union's right to free association. The law reflects recommendations made by the ILO Direct Contacts Mission and corresponds to international labor legislation. Previous requirements that were repealed under this law include the requirement that in order for a trade union to be registered, the labor inspector must certify that there is no other union. The law also amends the requirement that labor authorities must be present at general assemblies convened to vote on calling a strike (the trade unions now have the choice of having labor authorities present or not). However, the law added the requirement that when there is a request for information from an interested party, Ministry of Labor officials can require trade union leaders or members to provide relevant information on their work, including books, registers, plans, and other documents. The ILO Committee of Experts considers that this amendment is not in conformity with the freedom of association convention since control by an administrative authority should be used only for carrying out investigations when there are reasonable grounds that an offense has been committed.

According to estimates by the Ministry of Labor and various unions, 6 to 7 percent of the work force is organized. According to the Colombian Commission of Jurists, 89 percent of those organized are public sector workers. There are approximately 2,500 registered unions, 87 to 95 percent of which are organized in one of three confederations: The center-left United Workers' Central, with which 45 to 50 percent of unions are affiliated; the Maoist/Social Christian Colombian Democratic Workers' Confederation, with which approximately 30 percent of unions are affiliated; and the Liberal Party-affiliated Confederation of Colombian Workers (CTC), with which 12 to 15 percent of unions are affiliated. Unions and Ministry of Labor officials report that union membership has declined in recent years.

Before staging a legal strike, unions must negotiate directly with management and, if no agreement results, accept mediation. By law, public employees must accept binding arbitration if mediation fails; in practice, public service unions decide by membership vote whether or not to seek arbitration. In early August leaders of some unions called for a 24-hour strike by an estimated 700,000 state workers, including the Syndicated Union of Workers (USO) oil workers, the main public sector employees' union, telecommunications workers, teachers, and health workers, to protest government austerity workers and high unemployment.

Unions, indigenous groups, debtors, students, and others continued to both protest and negotiate with the Government over the latter's inability to confront the country's economic downturn, soaring unemployment, and a Labor Code reform bill which may eliminate several popular worker benefits. On August 3, a general strike organized by various unions, including the United Workers' Central (CUT) and the General Confederation of Democratic Workers (CGTD), protested economic policies, privatizations, unemployment, new taxes, and social security reforms in Bogota and other cities throughout the country. Union strikers were joined by bank employees and state workers, such as teachers and health employees.

Labor leaders throughout the country continued to be targets of attacks by paramilitary groups, guerrillas, narcotics traffickers, and their own union rivals. Labor leaders and NGO's reported that 105 union members were killed during the year; U.N. officials reported 54 murders of labor leaders during the first 10 months of the year. According to the National Labor School (ENS), approximately 1,500 union members have been murdered since 1991, and unions face widespread societal hostility because they are seen by some observers as "subversive." Trade union leaders allege that 90 percent of victims were killed by paramilitary groups. Other victims were targeted by the FARC for their membership in, or sympathy with, the National Syndicate of Agricultural Industry Workers (Sintrainagro), a union largely composed of demobilized EPL members. Many of the murdered Sintrainagro members had worked in the banana industry in the Uraba region. The ILO Direct Contact Mission preliminary report in March noted that "cases where the instigators and perpetrators of the murders of trade union leaders are identified are practically nonexistent, as is the handing down of guilty verdicts." The ENS also reported that in the last 5 years, 47 unionists have been the victims of forced disappearances, 60 unionists were kidnapped, and 1,573 unionists received death threats. The USO reported that at least 600 trade union leaders were displaced during the first 10 months of the year.

In May 1998, the ILO expressed serious concern over allegations of murders, forced disappearances, death threats, and other acts of violence against trade union

officials and members. The ILO documented more than 300 murders of trade union members during 1995–98. The ILO criticized the Government for failing, since November 1996, to provide it with information on a single case of detention, trial, and conviction of anyone responsible for the murder of union officials and members.

In February an ILO Direct Contacts Mission, which had been approved by the ILO Governing Body and accepted by the Government in November 1999, visited the country to examine alleged abuses of workers' rights to life, free association, and collective bargaining. In March the Direct Contacts Mission presented a preliminary report to the Governing Body's committee on freedom of association, which noted that the Government was "making sincere efforts" to address these problems. The report expressed concern over the number of killings, kidnappings, death threats, and other violent assaults on trade union leaders and unionized workers and stated that killings of trade union leaders and unionized workers were a "regular" occurrence.

Government efforts to overcome impunity include the establishment of 25 special human rights investigative subunits, one of which is responsible for cases of human rights violations of trade unionists, and a 49 percent increase in the legal budget for judicial employees. To protect trade unionists from violence, in 1999 the Government developed the Program for the Protection of Human Rights Defenders and Trade Union Leaders. As of November, the program provided protection for 41 trade union premises and protection for 116 leaders and activists. These individuals are provided with bulletproof vests, bodyguards, and in some cases vehicles. Trade unionists complain that these measures are insufficient to protect adequately the large number of trade unionists who are threatened, and continue to press for more efforts to break the impunity with which most of these acts are committed.

The ILO's recommendations included an urgent and global inquiry into the participation of public officials in the creation of self-defense or paramilitary groups; an increase in government budgetary allocations to protect trade union officials; and an increase in efforts to combat impunity. After a contentious debate at the June International Labor Conference, the Government and worker delegations agreed to a compromise offered by the ILO Director General Juan Somavia: the establishment of an ILO office in Bogota to be headed by his personal representative. Rafael Alburquerque was appointed ILO Special Representative to Colombia and began work in October. In November Alburquerque reported to the ILO Governing Body that the situation continues to be grave; the Special Representative's next report is expected in March 2001.

On May 4, Javier Suarez, the leader of a truck drivers' union, was shot and killed near his home in Buenaventura. Union leaders suspected that paramilitary groups were responsible.

In early August, Carmen Emilio Sanchez Coronel, a trade unionist with the teacher's union in Norte de Santander department, was killed along with seven other trade unionists at a paramilitary roadblock. The CUT also blamed paramilitary forces for the August 2 death of Antioquia union worker Luis Rodrigo Restrepo. The CUT alleged that paramilitary groups were targeting its rank and file members as well as union leaders.

On December 15, five men seriously wounded Wilson Borja, president of public employees' union FENALTRASE, when they fired on his car at a stoplight in an apparent attempt to kill him. The attackers killed a 30-year-old female street vendor and wounded one of Borja's two bodyguards. Paramilitary leader Carlos Castano publicly admitted ordering the attack and claimed that he meant to "detain" Borja. Most observers connected the attempt, which followed press reports of progress toward establishing an ELN "encounter zone," with Borja's role in facilitating the ELN peace process. Police detained one suspected gunman and a possible paramilitary accomplice within days of the attack.

Prosecutors have outstanding warrants for the arrest of paramilitary members Temilda Rosa Martinez and Eduardo Manrique Morales in the February 1999 killing of 72-year-old Julio Alfonso Poveda, a CUT founder.

In December the Prosecutor General's office arraigned three hired killers alleged to have murdered CUT vice president Jorge Ortega in 1998.

There were no leads in the August 1999 bomb incidents at both the Sincelejo, Sucre department offices of the Association of Rural Land Users (which was destroyed by a bomb) and at the Medellin office of the USO, where a bomb was defused. According to the ENS, there have been 14 bombing attempts against union offices in the last 3 years.

The Government still has not addressed a number of ILO criticisms of the Labor Code. In 1993 the ILO had complained about the following provisions of the law: The requirement that government officials be present at assemblies convened to vote on a strike call; the legality of firing union organizers from jobs in their trades once 6 months have passed following a strike or dispute; the requirement that con-



tenders for trade union office must belong to the occupation their union represents; the prohibition of strikes in a wide range of public services that are not necessarily essential; various restrictions on the right to strike; the power of the Minister of Labor and the President to intervene in disputes through compulsory arbitration when a strike is declared illegal; and the power to dismiss trade union officers involved in an unlawful strike.

The expired 1995 collective work convention between Ecopetrol and the USO was replaced by a new agreement in May 1999. USO leadership remained in open conflict with the Government on many issues. USO leaders reported that its members in the oilproducing Magdalena Medio region continued to receive death threats from presumed paramilitary groups, who have accused USO officials of working with the ELN guerrillas waging a sabotage campaign against the country's oil pipelines.

Unions are free to join international confederations without government restrictions.

*b. The Right to Organize and Bargain Collectively.*—The Constitution protects the right of workers to organize and engage in collective bargaining. Workers in larger firms and public services have been most successful in organizing, but these unionized workers represent only a small portion of the economically active population. High unemployment, traditional antiunion attitudes, a large informal economic sector, and weak union organization and leadership limit workers' bargaining power in all sectors. The requirement that trade unions must cover the majority of workers in each company as a condition for representing them in sectoral agreements further weakens workers' bargaining power.

The law forbids antiunion discrimination and the obstruction of free association; however, according to union leaders, both discrimination and obstruction of free association occurred frequently. Government labor inspectors theoretically enforce these provisions, but because there are 271 labor inspectors to cover 1,085 municipalities and more than 300,000 companies, the inspection apparatus is weak. Furthermore, labor inspectors often lacked basic equipment, such as vehicles. Guerrillas sometimes deterred labor inspectors from performing their duties by declaring them military targets.

The Labor Code calls for fines to be levied for restricting freedom of association and prohibits the use of strike breakers.

Collective pacts—agreements between individual workers and their employers—are not subject to collective bargaining and typically are used by employers to obstruct labor organization. Although employers must register collective pacts with the Ministry of Labor, the Ministry does not exercise any oversight or control over them.

The Labor Code also eliminates mandatory mediation in private labor-management disputes and extends the grace period before the Government can intervene in a conflict. Federations and confederations may assist affiliate unions in collective bargaining.

Labor law applies to the country's 15 free trade zones (FTZ's), but its standards often were not enforced in the zones. Public employee unions have won collective bargaining agreements in the FTZ's of Barranquilla, Buenaventura, Cartagena, and Santa Marta, but the garment manufacturing enterprises in Medellín and Risaralda, which have the largest number of employees, are not organized. Labor unions do not exist in any of the zones.

*c. Prohibition of Forced or Compulsory Labor.*—The Constitution forbids slavery and any form of forced or compulsory labor, and this prohibition generally is respected in practice in the formal sector; however, women were trafficked for the purpose of forced prostitution (see Section 6.f.).

Paramilitary forces and guerrilla groups forcibly conscripted indigenous people (see Section 5). There were some reports that the guerrillas used forced labor to build clandestine roads.

The law prohibits forced or bonded labor by children; however, the Government does not have the resources to enforce this prohibition effectively (see Section 6.d.). Although there were no known instances of forced child labor in the formal economy, several thousand children were forced to serve as paramilitary or guerrilla combatants (see Section 1.g.), to work as prostitutes (see Section 5), or in some instances as coca pickers.

Trafficking in girls for the purpose of forced prostitution is a problem (see Section 6.f.).

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The Constitution prohibits the employment of children under the age of 14 in most jobs, and the Labor Code prohibits the granting of work permits to youths under the age of 18; however, child labor is a significant problem, particularly in the informal sector. A 1989 decree established the Minors' Code and prohibited the employment of children under age 12. It also stipulated exceptional conditions and the express author-

ization of Labor Ministry inspectors for the employment of children between the ages of 12 and 17 years. Children under age 14 are prohibited from working, with the exception that those between the ages of 12 and 14 may perform very light work with the permission of their parents and appropriate labor authorities. All child workers (anyone under the age of 18) must receive the national minimum wage for the hours they work. Children between the ages of 12 and 14 can work a maximum of 4 hours a day; children between the ages of 14 and 16 can work a maximum of 6 hours a day; and children between the ages of 16 and 18 can work a maximum of 8 hours a day. All child workers are prohibited from working at night, or performing work in which there is a risk of bodily harm or exposure to excessive heat, cold, or noise. A number of specific occupations are prohibited for children as well, such as mining and construction. However, these requirements largely are ignored in practice, and only 5 percent of those children who work have filed for the required work permits. By allowing children between the ages of 12 and 13 to work, even under restricted conditions, the law contravenes international standards on child labor, which set the minimum legal age for employment in developing countries at 14 years.

In the formal sector, child labor laws are enforced through periodic review by the Ministry of Labor and by the military, which ensures compliance with mandatory service requirements. However, in the informal labor sector and in rural areas, child labor continues to be a problem, particularly in agriculture and mining. Children as young as 11 years of age work full-time in almost every aspect of the cut flower industry as a way to supplement family income. Even children enrolled in school or, in some cases, those too young for school, accompany their parents to work at flower plantations at night and on weekends. In the mining sector, coal mining presents the most difficult child labor problem. Many marginal, usually family-run, mining operations employ their young children as a way to boost production and income; it is estimated that between 1,200 and 2,000 children are involved. The work is dangerous and the hours are long. Younger children carry water and package coal, while those age 14 and up engage in more physically demanding labor such as carrying bags of coal. These informal mining operations are illegal. The Ministry of Labor reported that, by the end of 1999 an interagency governmental committee had removed approximately 80 percent of child laborers from the informal mines and returned them to school. The law prohibits the employment of minors for prostitution; however, child prostitution is a problem. In August the Prosecutor General's Specialized Sex Crimes and Human Dignity Unit reported that from August 1999 to August 2000 it opened 41 cases in which a child under age 14 was induced or lured into prostitution.

A Catholic Church study conducted in May 1999 reported that approximately 2.7 million children work, including approximately 700,000 who worked as coca pickers. This represented a sharp increase from 1992, when according to a 1997 study by Los Andes University, approximately 1.6 million children (between the ages of 12 and 17) worked. One observer noted that the recent economic downturn might increase the number of children working, especially in rural areas. Child participation in agricultural work soared at harvest times. According to the Ministry of Labor, working children between the ages of 7 and 15 earned on average between 13 and 47 percent of the minimum wage. An estimated 26 percent of working children had regular access to health care; approximately 25 percent were employed in potentially dangerous activities. The ICBF estimated that paramilitary and guerrilla groups employed 6,000 children as combatants (see Section 5). School attendance by working children was significantly lower than for nonworking children, especially in rural areas. The health services of the social security system cover only 10 percent of child laborers. A 1996 study by the national Human Rights Ombudsman of child labor in Putumayo department found that 22 percent of the children between the ages of 5 and 18 were full-time coca pickers. In the municipality of Orito, the figure reached 70 percent.

The Labor Ministry has an inspector in each of the 33 departments responsible for certifying and conducting repeat inspections of workplaces that employ children; however, this system has few resources and covered only the 20 percent of the child work force employed in the formal sector of the economy. In 1995 the Government established a National Committee for the Eradication of Child Labor, made up of representatives from the Ministries of Labor, Health, Education, and Communications, as well as officials from various other government offices, unions, employer associations, and NGO's. Under the Action Plan, the Government distributed funds during the year to member organizations of the committee for child labor eradication projects. The Government also obtained commitments from the country's leading trade associations and unions to implement child labor eradication programs with the jointly ILO's IPEC program, these programs were in the preparatory stages

at year's end. During the year, the Government formulated a 2000–02 Action Plan which gives priority to direct intervention on behalf of domestic child workers, child miners, sexually exploited children, children in trade activities and children in the agricultural sector. It has also designed a project, for which it is seeking funding, to collect more reliable national data on child labor.

The Government is taking steps to incorporate into national law, ILO Convention 182 concerning the prohibition of and immediate action for the elimination of the worst forms of child labor.

The Government prohibits forced and bonded labor by children; however, it is unable to enforce this prohibition effectively, and trafficking in girls for the purpose of forced prostitution and the forced recruitment of child soldiers are problems (see Sections 1.f., 1.g., 6.c., and 6.f.).

*e. Acceptable Conditions of Work.*—The Government sets a uniform minimum wage for workers every January to serve as a benchmark for wage bargaining. The monthly minimum wage, set by tripartite negotiations among representatives of business, organized labor, and the Government was about \$150 (322,500 pesos) throughout the year. The minimum wage does not provide a decent standard of living for a worker and family. Because the minimum wage is based on the Government's target inflation rate, the minimum wage has not kept up with real inflation in recent years. A total of 70 percent of all workers earn wages that are insufficient to cover the costs of the Government's estimated low-income family shopping basket. However, 77 percent of all workers earn no more than, and often much less than, twice the minimum wage.

The law provides for a standard workday of 8 hours and a 48-hour workweek, but it does not require specifically a weekly rest period of at least 24 hours, a failing criticized by the ILO.

Legislation provides comprehensive protection for workers' occupational safety and health; however, these standards are difficult to enforce, in part due to the small number of Labor Ministry inspectors. In general, a lack of public safety awareness, inadequate attention by unions, and lax enforcement by the Labor Ministry result in a high-level of industrial accidents and unhealthy working conditions. Over 80 percent of industrial companies lack safety plans. The Social Security Institute reported 53,408 work-related accidents during the year, which resulted in 417 deaths. There were 243 cases of work-related illness. The industries most prone to worker accidents were mining, construction, and transportation.

According to the Labor Code, workers have the right to withdraw from a hazardous work situation without jeopardizing continued employment. However, unorganized workers in the informal sector fear the loss of their jobs if they exercise their right to criticize abuses, particularly in the agricultural sector.

*f. Trafficking in Persons.*—There are no laws that specifically address trafficking in persons, and the country is a source for trafficking in women and girls to Europe, the United States, and Asia. In June Congress approved a new Criminal Code, which provides for a prison term of 6 to 8 years and a fine up to the equivalent of 100 times the minimum legal monthly salary for any person who "promotes, induces, compels, facilitates, collaborates, or in any other way participates in the entry or exit of people into or from the country without complying with all legal requisites." While intended to combat alien smuggling in general, the law could be used to prosecute traffickers as well. The law is scheduled to enter into effect in January 2001.

A government committee composed of representatives of the Ministry of Foreign Affairs, Interpol, the DAS, the Ministry of Justice, the Attorney General's office, the Prosecutor General's office, and the presidency meets once every 2 months to discuss trafficking in persons. In November the Ministry of Justice, the Organization for International Migration, and NGO Hope Foundation held the first national conference on trafficking in persons.

The DAS reported at that conference that Colombia is the third most common country of origin of trafficking victims, and that the majority of Colombian women trafficked for prostitution go to the Netherlands, Spain, Japan, Singapore, and Hong Kong. The Organization for Security and Cooperation in Europe issued a report on trafficking in persons in September 1999, which stated that women and girls from Colombia also are trafficked to North America. According to press reports, more than 50 percent of women from Colombia who enter Japan are trafficking victims forced to work as prostitutes. According to the DAS, 126 Colombian trafficking victims have been rescued abroad by Interpol during 1998–2000, and 115 victims were rescued by the National Police during 1999–2000. According to police, the majority of international trafficking operations are managed by Colombians and have ties to narcotics trafficking.

First Lady Nohra Pastrana, in conjunction with the Foreign Affairs Ministry and Interpol, participated in a public relations campaign to alert citizens, in particular women, to the risks of immigrating illegally to other countries.

On June 23, a Colombian woman trafficked to Denmark was granted asylum in Denmark after testifying against Colombian and Danish traffickers. In August police in Andalusia, Spain, detained 51 persons and broke up a ring that trafficked women from Brazil, Colombia, and Ecuador for purposes of prostitution.

## COSTA RICA

Costa Rica is a longstanding, stable, constitutional democracy with a unicameral Legislative Assembly directly elected in free multiparty elections every 4 years. Miguel Angel Rodriguez of the Social Christian Unity Party (PUSC) won the presidency in the February 1998 elections, in which approximately 70 percent of eligible voters cast ballots. The judiciary is independent.

The 1949 Constitution abolished the military forces. The Ministry of Public Security—which includes specialized units such as the antidrug police—and the Ministry of the Presidency share responsibility for law enforcement and national security. In 1996 the Government combined several police units within the Ministry of Public Security, including the Border Guard, the Rural Guard, and the Civil Guard, into a single “public force.” Public security forces generally observe procedural safeguards established by law and the Constitution; however, members of these forces occasionally committed human rights abuses.

The market economy is based primarily on light industry, tourism, and agriculture. Real gross domestic product (GDP) growth was estimated at 1.4 percent, compared with 8 percent in 1999. The government deficit is estimated to have narrowed to 2.1 percent of GDP, compared with 2.3 percent in 1999; however, the public sector deficit remained at 3.3 percent of GDP, the same as in 1999. The Constitution protects the right to private property; however, domestic and foreign property owners encounter considerable difficulty gaining adequate, timely compensation for lands expropriated for national parks and other purposes. The law grants considerable rights to squatters who invade uncultivated land, regardless of who may hold title to the property.

The Government generally respected the human rights of its citizens, and the law and judiciary provide effective means of dealing with individual instances of abuse; however, there were problems in a few areas. There were some instances of physical abuse by police and prison guards, and reports of police abuse of authority or misconduct increased during the year. The judicial system processes criminal cases very slowly, resulting in lengthy pretrial detention for some persons charged with crimes. Domestic violence is a serious problem, and abuse of children also remains a problem. Traditional patterns of unequal opportunity for women remain, in spite of continuing government and media efforts to advocate change. Child labor persists, and child prostitution is a growing problem.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Political and Other Extrajudicial Killing.*—There were no reports of political or other extrajudicial killings.

The third judicial police officer accused of the 1994 murder of farmer Ciro Monge did not appear for his trial in April, and his whereabouts were unknown at year's end. The two officers convicted in 1997 appealed the rulings and lost; one fled the country in 1998 but was captured and returned to serve his sentence in February.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits cruel or degrading treatment and holds invalid any statement obtained through violence, and the authorities generally abide by these prohibitions; however, members of the public forces were responsible for some physical abuse, and reports of police abuse of authority or misconduct increased during the year. An effective mechanism for lodging and recording complaints of police misconduct exists. The Ombudsman's office serves as a recourse to citizens that have complaints about violations of their civil and human rights and about deficiencies in public and private infrastructure. It investigates complaints and, where appropriate, initiates suits against officials.

The Ombudsman's office received 52 reports of police abuse of authority or misconduct during the year, compared with 14 in 1999 and 4 in 1998. The majority of

the reports involved complaints about negligence or corruption, but part of the large increase was due to complaints of alleged police brutality during the Costa Rican Electricity Institute strike (see Sections 2.b. and 6.a.). Police intervention during strike-related protests in downtown San Jose included the use of tear gas and riot gear.

A large percentage of police personnel owe their appointments to political patronage. The Rodriguez administration continued implementation of the 1994 Police Code designed to depoliticize and professionalize the police force. The Government's longterm plan is to establish permanent, professional cadres, eventually resulting in a nonpolitically appointed career force. The basic course for new police recruits includes training using a human rights manual developed by the Ministry of Public Security.

Prisoners generally receive humane treatment. Prisoners are separated by sex and by level of security (minimum, medium, and maximum). There are separate juvenile detention centers. Illegal narcotics are readily available in the prisons, and drug use is common. As of August, the Ombudsman's office had received two complaints of physical abuse of prisoners by guards, and four complaints of psychological abuse; compared with six complaints of physical abuse and six complaints of psychological abuse in all of 1999. The Ombudsman's office investigates complaints and refers serious cases of abuse to the public prosecutor.

Penitentiary overcrowding remains a problem, with the prison population estimated at 67 percent above planned capacity in 1999. A study by a U.N. agency found that the prison population grew by 155 percent from 1992-99. The Government is expanding six prisons to address this problem. In March 1996, the Supreme Court's Constitutional Chamber issued an order to the San Sebastian prison in San Jose, giving the institution 1 year to achieve minimally acceptable conditions for the prisoners. As of September, occupancy in that prison was 139 percent above intended capacity, an increase from 108 percent in 1999. In August the Supreme Court's Constitutional Chamber declared that no additional prisoners would be admitted to the San Sebastian prison until it met the U.N. minimum standards for the treatment of the imprisoned. The Ministry of Justice responded by calling on the Rodriguez administration to allocate more funds for prison enhancement. Five additional facilities have been opened and three have been undergoing renovation since 1999 as part of this plan. The Government also approved the budget for a series of detention facilities in outlying provinces, which are expected both to reduce overcrowding and to locate prisoners closer to their families.

The Government permits prison visits by independent human rights monitors.

*d. Arbitrary Arrest, Detention, or Exile.*—The Constitution and law prohibit arbitrary arrest and detention, and the Government generally respects these prohibitions.

The law requires issuance of judicial warrants before making arrests. The Constitution entitles a detainee to a judicial determination of the legality of the detention during arraignment before a court officer within 24 hours of arrest. The authorities generally respect these rights.

The law provides for the right to bail, and the authorities observe it in practice. Generally, the authorities do not hold detainees incommunicado. With judicial authorization, the authorities may hold suspects for 48 hours after arrest or, under special circumstances, for up to 10 days.

The Constitution bars exile as punishment, and it is not used.

*e. Denial of Fair Public Trial.*—The Constitution and law provide for an independent judiciary, and the Government respects this provision in practice. The Constitution provides for the right to a fair trial, and an independent judiciary vigorously enforces this right.

The Supreme Court supervises the work of the lower courts, known as tribunals. The Legislative Assembly elects the 22 Supreme Court magistrates to 8-year terms, subject to automatic renewal unless the Assembly decides otherwise by a two-thirds majority. Accused persons may select attorneys to represent them, and the law provides for access to counsel at state expense for the indigent.

Persons accused of serious offenses and held without bail sometimes remain in pretrial custody for long periods. Lengthy legal procedures, numerous appeals, and large numbers of detainees cause delays and case backlogs. As of February, there were 1,967 accused persons jailed while awaiting trial, representing 21 percent of the prison population.

There were no reports of political prisoners. However, one individual was jailed for committing crimes against the State (politically motivated acts of violence) in the 1980's. The human rights group Families for the Defense of Political Prisoners and Human Rights considers this person to be a political prisoner.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such practices; government authorities generally respect these prohibitions; and violations are subject to effective legal sanction. The law requires judicial warrants to search private homes. Judges may approve the use of wiretaps in limited circumstances, primarily to combat narcotics trafficking.

The law grants considerable rights to squatters who invade uncultivated land, regardless of who may hold title to the property. Landowners throughout the country have suffered frequent squatter invasions for years. President Rodriguez said he would give priority to reducing these conflicts, increasing public security, and regularizing land tenure. The Legislative Assembly is reexamining laws that allow occupants of land to gain title through adverse possession. The incidence of squatter invasions had increased in 1999 in anticipation of the land tenure regularization. However, during the year there was only one instance when squatter families were removed. In that case, the Government removed 230 families without reports of protests or violence.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the Government respects these rights in practice. An independent press, a generally effective judiciary, and a functioning democratic political system together ensure freedom of speech and of the press.

There are 6 major privately owned newspapers, several periodicals, 20 privately owned television stations, and over 80 privately owned radio stations, all of which pursue independent editorial policies. While the media generally criticized the Government freely, there were unconfirmed allegations that the Government withheld advertising from some publications in order to influence or limit reporting.

A 1996 "right of response" law provides persons criticized in the media with an opportunity to reply with equal attention and at equal length. Print and electronic media continued to criticize public figures; however, media managers have found it difficult to comply with provisions of this law.

The Penal Code outlines a series of "insult laws" that establish criminal penalties of up to 3 years in prison for those convicted of "insulting the honor or decorum of a public official." The law also identifies defamation, libel, slander, and calumny as offenses against a person's honor that can carry criminal penalties. The Inter-American Press Association and the World Press Freedom Committee assert that such laws have the effect of restricting reporting by the media, and that they wrongly provide public officials with a shield from public scrutiny by citizens and the press.

The Office of Control of Public Spectacles rates films and has the authority to restrict or prohibit their showing; it has similar powers over television programs and stage plays. Nonetheless, a wide range of foreign films are available to the public. A tribunal reviews appeals of the office's actions.

The Government respects academic freedom.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for these rights, and the Government respects them in practice.

In March police intervention to disband strike-related protests in San Jose resulted in complaints to the Ombudsman's office that such actions were abusive and constituted evidence of police brutality (see Sections 1.c. and 6.a.).

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government respects this right in practice. While the Constitution establishes Roman Catholicism as the state religion, members of all denominations freely practice their religion without government interference. Religious education teachers, including those in public schools, must be certified by the Roman Catholic Episcopal Conference. Foreign missionaries and clergy of all denominations work and proselytize freely.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights, and the Government respects them in practice. There are no restrictions on travel within the country, on emigration, or on the right of return.

There is a long tradition of providing refuge to persons from other Latin American countries.

The law provides for granting asylum or refugee status in accordance with the standards of the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol, and the Government has admitted approximately 5,000 persons as refugees under terms of the convention. The Government cooperates with the office of the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees. The Government makes a distinction between political asylum and refugee status. The issue of the provision of first asylum did not arise. The Constitution specifically prohibits repatriation of anyone subject to potential persecu-

tion, and there were no reports of the forced expulsion of persons to a country where they feared persecution.

The authorities regularly repatriated undocumented Nicaraguans, most of whom entered the country primarily for economic reasons. However, following Hurricane Mitch in 1998, the Government announced a program of general amnesty for all Nicaraguans, Hondurans, and Salvadorans in the country prior to November 9, 1998. By June 156,000 Central Americans, 95 percent of whom are Nicaraguans, qualified for and received legal resident status under this government amnesty program.

Immigration officials reported that 4,000 Colombians were expected to emigrate to Costa Rica during the year; 2,831 emigrated in 1999. The majority immigrate legally. However, others seek temporary refugee status, and under the law, are expected to return to their country of origin once the period of conflict ends in their country.

The Government has been reluctant in many cases to state publicly under what status it would grant legal residence. However, according to press reports, the authorities granted 16 Cuban athletes asylum in the period between January 1999 and June, under the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol.

Allegations of abuse by the Border Guard periodically arise. Although instances of physical abuse appear to have declined, there were credible reports of extortion of migrants by border officials.

### *Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The Constitution provides citizens with the right to change their government peacefully, and citizens exercise this right in practice through free and fair elections held on the basis of universal suffrage and by secret ballot every 4 years. The independent Supreme Electoral Tribunal ensures the integrity of elections, and the authorities and citizens respect election results. The Constitution bars the President from seeking reelection, and Assembly members may seek reelection only after at least one term out of office. In September the Constitutional Chamber of the Supreme Court upheld the constitutionality of this provision in response to a petition filed by private citizens. The case is expected to be appealed to the Inter-American Court of Human Rights for a determination of whether the ban on presidential reelection constitutes an infringement of citizens' rights to vote and run for office.

In the 1998 elections, President Rodriguez's Social Christian Unity Party won a plurality in the Legislative Assembly, winning 27 of 57 seats. The National Liberation Party (PLN) won 23 seats, the Democratic Force won 3 seats, and 4 minor parties—the Labor Action, National Integration, Costa Rican Renovation, and Libertarian Movement parties—each won 1 seat.

Women encounter no legal impediments to their participation in politics; however, while they are underrepresented overall, women are represented increasingly in leadership positions in the Government and political parties. Both vice presidents (who are also cabinet members), the Minister of Justice, the Minister of Women's Affairs, and 11 legislative assembly deputies are women. Sonia Picado, leader of the PLN, the principal opposition party, is also a woman. Former Assembly Deputy Sandra Pizsk continues as Ombudsman, a key autonomous post created in 1993 to protect the rights and interests of citizens in their dealings with the Government, and Linette Saborio remained the Director General of the judicial investigative organization. The PUSC mandated that a minimum of 40 percent of posts in party councils be occupied by women and created the Ministry of Women's Affairs, headed by Dr. Gloria Valerin. In 1998 female legislators formed the Foundation of Women Parliamentarians of Costa Rica to commemorate the 45th anniversary of the first female members of the Assembly. The group's principal focus is to promote women's involvement in politics through informational meetings and public awareness campaigns, but it also works for a number of social objectives, including the decentralization of government.

Indigenous people may participate freely in politics and government; however, in practice, they have not played significant roles in these areas, except on issues directly affecting their welfare, largely because of their relatively small numbers and physical isolation. They account for about 1 percent of the population, and their approximately 20,000 votes constitute an important swing vote in national elections. None of the 57 members of the National Assembly identifies himself as indigenous. There are two black members in the Assembly. The country's 100,000 blacks, who mostly reside on the Caribbean coast, enjoy full rights of citizenship, including the protection of laws against racial discrimination.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

Various human rights groups operate without government restriction, investigating and publishing their findings on human rights cases. Government officials are cooperative and responsive to their views. The Costa Rican Commission for Human Rights, the Commission for the Defense of Human Rights in Central America, and the Family and Friends of Political Prisoners of Costa Rica monitor and report on human rights, as does the Ombudsman's office.

The Legislative Assembly elects the Ombudsman for a 4-year, renewable term. The Ombudsman's office is part of the legislative branch, ensuring a high degree of independence from the executive branch. The law provides for the functional, administrative, and judgmental independence of the Ombudsman's office.

Several international organizations concerned with human rights, including the Inter-American Institute for Human Rights and the Inter-American Court of Human Rights, are located in San Jose.

*Section 5. Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status*

The Constitution provides that all persons are equal before the law, and the Government generally respects these provisions.

*Women.*—The Government has identified domestic violence against women and children as a serious societal problem. The Costa Rican Women's Defense Office handled 5,188 cases of domestic violence in 1999. The Law Against Domestic Violence classifies certain acts of domestic violence as crimes and mandates their prosecution. An old law permitted a judge to pardon a man accused of statutory rape if the perpetrator intends to marry the victim, she and her family acquiesce, and the National Institute for Children does not object; however, an August 1999 reform to the Penal Code rendered this article void. The authorities have incorporated training on handling domestic violence cases into the basic training course for new police personnel. The domestic violence law requires public hospitals to report cases of female victims of domestic violence. It also denies the perpetrator possession of the family home in favor of the victim. Television coverage of this issue has increased in news reporting, public service announcements, and feature programs. Reports of violence against women have increased, possibly reflecting a greater willingness of victims to report abuses rather than an actual increase in instances of violence against women. The public prosecutor, police, and the Ombudsman all have offices dedicated to this problem. The law against sexual harassment in the work place and educational institutions seeks to prevent and punish sexual harassment in those environments.

Prostitution and sex tourism are both legal for persons over the age of 18. The prohibition against trafficking in women for the purpose of prostitution was strengthened by a statute that went into effect in August 1999, although there have been only infrequent and isolated cases reported in the past (see Section 6.f.).

Women constitute 50.1 percent of the population. In 1998 President Rodriguez created the Ministry of Women's Affairs. The 1990 Law for the Promotion of the Social Equality of Women prohibits discrimination against women and obligates the Government to promote political, economic, social, and cultural equality. In March 1996, the Government's National Center for the Development of Women and the Family presented its 3-year National Plan for Equality of Opportunity between Women and Men. The plan is based on the Platform for Action adopted at the Fourth World Conference on Women in Beijing in 1995. As part of the plan, the Government established an office for gender issues in the Ministry of Labor; similar offices are planned in two other ministries.

According to the United Nations Development Program (UNDP) 1999 Human Development Report, women represent 31 percent of the labor force. Most women work in the services sector, with others working in industry and agriculture. While laws require that women and men receive equal pay for equal work, average salaries for women remain somewhat below those of their male counterparts. According to 1997 UNDP data, women occupy 45 percent of executive, management, and technical positions.

*Children.*—The Government is committed to children's rights and welfare through well-funded systems of public education and medical care. The Government spends over 5 percent of GDP on medical care. In June 1998, the Legislative Assembly passed a constitutional amendment increasing spending on education from 4 percent to 6 percent of GDP. The country has a high rate of literacy (95 percent) and a low rate of infant mortality (14 persons per 1,000). The law requires 6 years of primary and 3 years of secondary education for all children. There is no difference in the treatment of girls and boys in education or in health care services. The autonomous



National Institute for Children (PANI) oversees implementation of the Government's programs for children. In December 1996, the Assembly passed a law strengthening the PANI's role in protecting and promoting the rights of children, in accordance with the provisions of the U.N. Convention on the Rights of the Child.

In recent years, the PANI has increased public awareness of abuse of children, which remains a problem. From January to June, the Institute intervened in 3,704 cases of abandonment, 1,013 cases of physical abuse, 536 cases of sexual abuse, and 885 cases of psychological abuse of children. The PANI attributed the increase in cases reported to better reporting capabilities and an increase in patterns of child abuse. There was also a continued increase in reported psychological abuse cases because the 1997 Code of Childhood and Adolescence redefined such abuse and increased awareness of it. Abuses appear to be more prevalent among poor, less-educated families. Traditional attitudes and the inclination to treat such crimes as misdemeanors sometimes hamper legal proceedings against those who commit crimes against children.

In February 1996, the PANI announced a comprehensive plan to improve the conditions of the poorest children. According to Institute estimates, 19 percent of children between the ages of 5 and 17 are employed in domestic tasks, while 15 percent work outside the home. The Government, police sources, and UNICEF representatives acknowledge that child prostitution is a growing problem. Although no official statistics exist, the PANI has identified street children in the urban areas of San Jose, Limon, and Puntarenas as being at the greatest risk. Estimates of the number of children involved in prostitution vary widely. An International Labor Organization (ILO) study of four San Jose neighborhoods in 1998-99 identified at least 212 minor girls working as prostitutes, but other countrywide estimates are higher. A PANI study estimated that some 40 families in August supported themselves by "renting" their children to sex tourists. In July 1999, the Legislative Assembly passed the Law Against the Sexual Exploitation of Minors, which specifically penalizes persons who use children and adolescents for erotic purposes and made it a crime to engage in prostitution with minors. An adult who pays for sex with a minor can be sentenced to 2 to 10 years in prison. The Government took steps to enforce this law and has raided brothels and arrested clients. The law provides for prison sentences from 4 to 10 years for those managing or promoting child prostitution. The authorities brought charges against 30 persons for violating the law and had convicted 4 persons by year's end.

Casa Alianza operates a 24-hour telephone help line that received 240 accusations of exploitation of minors. In March the organization made a presentation to the Inter-American Commission on Human Rights (IACHR) about what it termed the growing commercial sexual exploitation of children in the country. Casa Alianza criticized the Government for not providing the PANI with 7 percent of national tax revenue, as stipulated by the law creating the Institute, and also criticized the Government for the relatively low number of persons actually charged, found guilty, and sentenced for child exploitation.

*People with Disabilities.*—The 1996 Equal Opportunity for Persons with Disabilities Law prohibits discrimination, provides for health care services, and mandates provision of access to buildings for persons with disabilities. This law is not enforced widely, and many buildings remain inaccessible to persons with disabilities. In July a government study concluded that only 35 percent of the law's stated goals had been implemented. Nonetheless, a number of public and private institutions have made individual efforts to improve access. In 1999 the PANI and the Ministry of Education published specific classroom guidelines for assisting children with hearing loss, motor difficulties, attention deficit disorder, and mental retardation. In October the Ministry reported that since 1998 there had been a 20 percent increase in special education services offered throughout the country, and that 116 special education centers had been created.

*Indigenous People.*—The population of about 3.5 million includes nearly 40,000 indigenous people among 8 ethnic groups. Most live in traditional communities on 22 reserves which, because of their remote location, often lack access to schools, health care, electricity, and potable water. The Government, through the National Indigenous Commission, completed distribution of identification cards to facilitate access to public medical facilities in 1999. The Government also built a medical clinic and several community health centers in indigenous areas. The Ombudsman has established an office to investigate violations of the rights of indigenous people. In January 1999, a group of indigenous people from Puntarenas challenged the constitutionality of the 1978 Indigenous Law because of their inability to possess private property on the reservation. The Supreme Court's Constitutional Chamber rejected this challenge in January.

### Section 6. Worker Rights

*a. The Right of Association.*—The law specifies the right of workers to join unions of their choosing without prior authorization, although barriers exist in practice. About 15 percent of the work force is unionized, almost entirely in the public sector. Unions operate independently of government control.

Some trade union leaders contend that “solidarity” associations, in which employers provide access to credit unions and savings plans in return for agreement to avoid strikes and other types of confrontation, infringe upon the right of association. After the ILO Committee on Freedom of Association (CFA) ruled that solidarity associations and their involvement in trade union activities violated freedom of association, the Government amended the Labor Code in 1993. The following year, the ILO Committee of Experts (COE) ruled that these and other planned changes fostered greater freedom of association. In 1995 the COE encouraged the Government to approve legislation to allow unions to administer compensation funds for dismissed workers and to repeal labor code provisions restricting the right to strike in certain nonessential public, agricultural, and forestry sectors. The International Confederation of Free Trade Unions (ICFTU) reported that the Labor Ministry provided information about newly formed unions to employers who then encouraged formation of solidarity associations and blacklisted union members. The Labor Ministry denied the reports but acknowledged that solidarity association culture is deeply embedded. During 1999 and 2000, the Labor Ministry received 13 complaints (representing 7 incidents) charging explicit antiunion discrimination.

In June 1998, the Rerum Novarum Workers Confederation complained about government noncompliance with commitments to protect worker rights but withdrew the complaint after the Rodriguez administration asked for a reasonable period to demonstrate its commitment to worker rights. Some labor unions did not support the complaint because they believed that it interfered with the administration’s national reconciliation process. In August the Rerum Novarum confederation resubmitted the complaint against the Government; they had not received a response at year’s end.

The Constitution and Labor Code restrict the right of public sector workers to strike. However, in February 1998, the Supreme Court formally ruled that public sector workers, except those in essential positions, have the right to strike. Even before this ruling, the Government had removed penalties for union leaders participating in such strikes.

In March the Supreme Court’s Constitutional Chamber clarified the law forbidding public sector strikes. It ruled that public sector strikes may be allowed only if a judge approves them beforehand and finds that “services necessary to the well-being of the public” are not jeopardized. Public sector workers who decide to strike can no longer be penalized by a prison sentence but can face charges of breach of contract.

In March Costa Rican Electricity Institute (ICE) workers, employees from public hospitals, teachers, students, taxi drivers, and public transportation workers called a general strike that lasted several days to protest the passage of legislation which would partially open the ICE to private participation (see Sections 1.c. and 2.b.).

There are no legal restrictions on the right of private sector workers to strike, but very few workers in this sector belong to unions. Private sector strikes rarely occur; however, their frequency increased during the year.

Unions may form federations and confederations and affiliate internationally.

*b. The Right to Organize and Bargain Collectively.*—The Constitution protects the right to organize. Specific provisions of the 1993 Labor Code reforms provide protection from dismissal for union organizers and members during union formation. The revised provisions require employers who are found guilty of discrimination to reinstate workers fired for union activities. However, the ILO’s CFA reported that harassment is still used to force workers to leave unions, and that other violations of labor legislation continue to occur. In one incident, a company in the banana industry refused to negotiate with a legitimate union for 3 years. The company eventually fired the union leader and established a solidarity association.

Trade unions claim that the 1993 reforms have not led to significant improvements because the Government has not enforced the law effectively. However, the Labor Ministry hired an additional 10 labor inspectors who are able to expedite such cases. The Constitutional Chamber ruled that the labor inspectorate must comply with the 2-month time limit for investigations. Most cases take up to 2 months to resolve, but some may take longer if the judge decides that an unusual situation merits further investigation and requires witnesses. Delays in processing court rulings are common throughout the judicial branch.

Public sector workers cannot engage in collective bargaining because the Public Administration Act of 1978 makes labor law inapplicable in relations between the

Government and its employees. However, the Supreme Court has affirmed their right to strike (see Section 6.a.). In August 1999, the Government negotiated a wage increase following a 7-day strike by public sector workers. Private sector unions have the legal right to engage in collective bargaining.

All labor regulations apply fully to the country's nine export processing zones (EPZ's). The Labor Ministry oversees labor regulations within the EPZ's. It reported that after an effort to hire additional inspectors, it now has 1 inspector for every 9,000 workers, compared with 1 for every 30,000 in 1999.

*c. Prohibition of Forced or Compulsory Labor.*—The Constitution prohibits forced or compulsory labor, and there were no known instances of such practices. Laws prohibit forced and bonded labor by children, and the Government enforces this prohibition effectively.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The Constitution and the Labor Code provide special employment protection for women and children and establish a minimum working age of 15 years. The Legislative Assembly adopted the Code on Childhood and Adolescence in December 1997, which includes provisions designed to implement the U.N. Convention on the Rights of the Child. Adolescents between the ages of 15 and 18 can work for a maximum of 6 hours daily and 36 hours weekly, while children under age 15 cannot work legally. The PANI, in cooperation with the Labor Ministry, generally enforces these regulations in the formal sector. Due to limited government resources for enforcement, some children work on the fringes of the formal economy in violation of these limits. Youths under the age of 18 may not work in the banana industry. A 1999 study by the Census Bureau and Ministry of Labor estimated that 8.9 percent of the population between the ages of 5 and 14 are involved in the country's formal and informal workforce, and found that 70 percent of these children are boys. However, the study also indicated that the number of minor children in the workforce has dropped steadily over the past 10 years.

With help from the ILO, the Labor Ministry is working to phase out child labor and has asked employers of children to notify the Ministry of such employment. The Government formed the National Directive Committee for the Progressive Eradication of Child Labor and Protection of Adolescent Laborers in 1990. Representatives from the PANI, the Ministry of Labor, the Ministry of Justice, the Ministry of Public Security, the Ombudsman's Office, UNICEF, the ILO, and area universities are part of the committee. In April 1999, the Committee conducted an aggressive public awareness campaign as part of its national plan. The campaign addressed child labor and explained existing legislation to audiences of different age groups. The Ministry of Labor maintains an Office for the Eradication of Child Labor, which cooperates with projects sponsored by the ILO, U.N. Development Program, and other entities. Nonetheless, child labor remains an integral part of the informal economy, particularly in small-scale agriculture and family-run microenterprises selling various items, which employ a significant proportion of the labor force. Child prostitution is a growing problem (see Section 5). The law prohibits forced and bonded labor by children, and the Government enforces this prohibition effectively (see Section 6.c.).

In October the International Relations Commission of the Legislative Assembly approved ILO Convention 182 on the eradication of the worst forms of child labor for debate on the Assembly floor, which was scheduled for the session beginning in December.

*e. Acceptable Conditions of Work.*—The Constitution provides for a minimum wage. A National Wage Council, composed of three members each from government, business, and labor, sets minimum wage and salary levels for all sectors. Monthly minimum wages, last adjusted in July for the private sector, range from \$137 (42,373 colones) for domestic employees to \$662 (205,365 colones) for some professionals. Public sector negotiations, based on private sector minimum wages, normally follow the settlement of private sector negotiations. The Ministry of Labor effectively enforces minimum wages in the San Jose area, but does so less effectively in rural areas. Especially at the lower end of the wage scale, the minimum wage is insufficient to provide a worker and family with a decent standard of living.

The Constitution sets workday hours, overtime remuneration, days of rest, and annual vacation rights. Although often circumvented in practice, it also requires compensation for discharge without due cause. Generally, workers may work a maximum of 8 hours during the day and 6 at night, up to weekly totals of 48 and 36 hours, respectively. Nonagricultural workers receive an overtime premium of 50 percent of regular wages for work in excess of the daily work shift. However, agricultural workers do not receive overtime pay if they voluntarily work beyond their normal hours. Little evidence exists that employers coerce employees to perform such overtime.

A 1967 law on health and safety in the workplace requires industrial, agricultural, and commercial firms with 10 or more workers to establish a joint management-labor committee on workplace conditions and allows the Government to inspect workplaces and to fine employers for violations. Most firms subject to the law establish such committees but either do not use the committees or do not turn them into effective instruments for improving workplace conditions. Due partly to budgetary constraints, the Ministry has not fielded enough labor inspectors to ensure consistent maintenance of minimum conditions of safety and sanitation, especially outside San Jose. However, ministry programs to hire additional inspections and enhance inspector training programs have resulted in some progress. While workers have the right to leave work if conditions become dangerous, workers who do so may jeopardize their jobs unless they file written complaints with the Labor Ministry.

*f. Trafficking in Persons.*—The law prohibits trafficking in women for the purpose of prostitution, and in August 1999, a statute went into effect that strengthens this prohibition. There have been only infrequent and isolated cases of trafficking in women in the past (see Section 5). However, in its March submission to the IACHR, Casa Alianza asserted that there was trafficking in women from Colombia, the Dominican Republic, and the Philippines to the country. Local authorities lack the resources necessary to address this problem; there is little in the way of government protection, aid, or educational campaigns for persons who have been trafficked to or from the country. The Ministry of Women's Issues began an awareness campaign in 1999 to educate women about the dangers of trafficking.

## CUBA

Cuba is a totalitarian state controlled by President Fidel Castro, who is Chief of State, Head of Government, First Secretary of the Communist Party, and commander-in-chief of the armed forces. President Castro exercises control over all aspects of life through the Communist Party and its affiliated mass organizations, the government bureaucracy, and the state security apparatus. The Communist Party is the only legal political entity, and President Castro personally chooses the membership of the Politburo, the select group that heads the party. There are no contested elections for the 601-member National Assembly of People's Power (ANPP), which meets twice a year for a few days to rubber stamp decisions and policies already decided by the Government. The Party controls all government positions, including judicial offices. The judiciary is completely subordinate to the Government and to the Communist Party.

The Ministry of Interior is the principal organ of state security and totalitarian control. Officers of the Revolutionary Armed Forces (FAR), which are led by President Castro's brother, Raul, have been assigned to the majority of key positions in the Ministry of Interior in recent years. In addition to the routine law enforcement functions of regulating migration and controlling the Border Guard and the regular police forces, the Interior Ministry's Department of State Security investigates and actively suppresses opposition and dissent. It maintains a pervasive system of vigilance through undercover agents, informers, the rapid response brigades, and the Committees for the Defense of the Revolution (CDR's). The Government traditionally uses the CDR's to mobilize citizens against dissenters, impose ideological conformity, and root out "counterrevolutionary" behavior. During the early 1990's, economic problems reduced the Government's ability to reward participation in the CDR's and hence the willingness of citizens to participate in them, thereby lessening the CDR's effectiveness. Other mass organizations also inject government and Communist Party control into citizens' daily activities at home, work, and school. Members of the security forces committed serious human rights abuses.

The Government continued to control all significant means of production and remained the predominant employer, despite permitting some carefully controlled foreign investment in joint ventures with it. Foreign companies are required to contract workers only through Cuban state agencies, which receive hard currency payments for the workers' labor but in turn pay the workers a fraction of this (usually 5 percent) in local currency. In 1998 the Government retracted some of the changes that had led to the rise of legal nongovernmental business activity when it further tightened restrictions on the self-employed sector by reducing the number of categories allowed and by imposing relatively high taxes on self-employed persons. In September the Minister of Labor and Social Security publicly stated that more stringent laws should be promulgated to govern self-employment. He suggested that the Ministry of Interior, the National Tax Office, and the Ministry of Finance act in a coordinated fashion in order to reduce "the illegal activities" of the many self-em-